

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

BRANDON CALLIER,)
)
)
PLAINTIFF,)
)
VS.) CIVIL ACTION
)
) NO. 3:22-cv-00301-FM
JASCOTT ENTERPRISES, LLC,)
et al.,)
)
)
)
DEFENDANTS.)

ORAL DEPOSITION OF
MITCHELL SCOTT
JANUARY 12, 2024

ORAL DEPOSITION OF MITCHELL SCOTT, produced as a
witness at the instance of the PLAINTIFF, and duly
sworn, was taken in the above-styled and numbered cause
on the 12th of January, 2024, from 9:34 a.m. to 12:06
p.m., via Zoom video teleconference, pursuant to the
Federal Rules of Civil Procedure.

Reported By:

Melody C. Joiner, CSR

A P P E A R A N C E S

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1 THE REPORTER: My name is Melody Joiner,
2 Texas CSR Number 5525. I am located in my office in
3 El Paso, Texas. Our witness, Mitchell Scott, is located
4 in Eden Prairie, Minnesota.

5 MITCHELL SCOTT,
6 having been first duly sworn, testified as follows:

7 EXAMINATION

8 BY MR. MILTENBERGER:

9 Q. Mr. Scott, my name is Chris Miltenberger. And
09:34AM 10 I'm an attorney representing Brandon Callier in his TCPA
11 lawsuit against JaScott Investments, one of the
12 defendants. When we talk today about JaScott -- how do
13 you say it, first? Is it JaScott?

14 A. You got it. Yeah, correct.

09:34AM 15 Q. When we talk about JaScott Investments, we
16 understand that that references JaScott Investments,
17 LLC, okay?

18 A. Correct. Yeah.

19 Q. And are you the owner of JaScott Investments?

09:35AM 20 A. Correct. Yes.

21 Q. Are you the sole owner?

22 A. Yes.

23 Q. And do you have a position with JaScott
24 Investments, employment position?

09:35AM 25 A. Yeah. Are you -- are you asking me if I

1 collect a paycheck from JaScott Investments?

2 Q. I'm trying to determine if you make the
3 decisions and you're running the JaScott Investments.

4 A. I do make the decisions, and I do run JaScott
09:35AM 5 Investments.

6 Q. Does anybody else make the decisions for
7 JaScott Investments?

8 A. No.

9 Q. And how long have you been the owner and the
09:35AM 10 person making the decisions on behalf of JaScott
11 Investments?

12 A. I believe since 2019.

13 Q. And, at some point in time, JaScott Investments
14 hired a firm over in Bangladesh to work as its customer
09:36AM 15 service representatives; is that right?

16 A. That is correct.

17 Q. And Mark Fawzy was one of those individuals
18 that was assigned to work as a customer service
19 representative on behalf of JaScott Investments,
09:36AM 20 correct?

21 A. So I want to clarify that: So my relationship
22 was with the company called Synagis -- probably not
23 saying it right, but Synagis [sic] -- so we hired
24 Synagis, and they are the ones that hired Mark Fawzy to
09:36AM 25 rep- -- to contract with us. So my contract was

1 actually with Sygnius -- sorry -- Sygnius Group. And
2 they are the ones who gave us Mark Fawzy as a
3 representative to take on that task.

4 Q. So they gave you Mark Fawzy to work as a
09:36AM 5 customer service representative on behalf of JaScott
6 Investments, correct?

7 A. Correct. Correct. So we called them
8 customer --

9 Q. You -- you can just answer my question. If I
09:36AM 10 want you to explain, I'll ask you to explain. But it
11 will go quicker if you just answer my question, okay?

12 A. So, to clarify, my -- what you're asking me, we
13 referred to them internally as "customer care
14 representatives," but they refer to that position as a
09:37AM 15 "chaser." So their role was to chase down the
16 documents. So I apologize, Mr. -- how do you say your
17 name, sir? I'm sorry. Is it Miltenberger?

18 Q. Miltenberger, that's correct.

19 A. So, sorry. Sorry. But that -- your question
09:37AM 20 needed a little bit more clarification, because I want
21 to be as -- as clear as possible, that -- of what they
22 were referred to. So that -- that's why I went more.

23 Q. So you referred to them as a "customer service
24 representative," and they referred to them as a
09:37AM 25 "chaser"?

1 A. "Chaser," yeah.

2 Q. And, as a customer service representative, they
3 were speaking with potential customers of JaScott
4 Investments, correct?

09:38AM 5 A. Correct.

6 Q. And you hired that firm in Bangladesh because
7 it was cheaper than hiring U.S. employees to fill that
8 role as customer service representative, correct?

9 A. In part. Also, because they had systems and
09:38AM 10 processes already in place. And, in order for me to --
11 to duplicate those systems and processes, I would have
12 to have a lot more resources, opposed to -- to one
13 person and build that out myself. So it was more --
14 cheaper, yes. But the process and systems were already
09:38AM 15 in place.

16 Q. And you gave -- or you allowed Mr. Fawzy to use
17 a JaScott Investments e-mail address, correct?

18 A. Correct.

19 Q. And you allowed Mark Fawzy to use the JaScott
09:38AM 20 Investments phone number, correct?

21 A. So that was not a JaScott phone number. Our
22 number is a 214 number. It's an 877 number. It's a
23 completely different phone system. He wasn't -- he
24 didn't have access to our phone system.

09:39AM 25 In order to -- in order to kind of monitor

1 or -- or at least be aware of what they were doing, I
2 did purchase a phone number, a VOIP separate from the
3 JaScott number, and I -- and I gave that to them and
4 they made phone calls on that.

09:39AM 5 Q. Okay. So, just so I'm clear, JaScott
6 Investments, when you say "I," you're meaning you on
7 behalf of JaScott Investments, right?

8 A. Correct -- sorry about that -- investments.

9 Q. So JaScott Investments purchased the phone
09:39AM 10 number for Mark Fawzy to use as a customer service
11 representative for JaScott Investments, correct?

12 A. Correct.

13 Q. Now, I am going to share my screen with you.
14 Can you see that shared screen?

09:40AM 15 A. I can, yes.

16 Q. And can you see the document? Looks like it's
17 a text back and forth with Brandon Callier, correct?

18 A. Correct.

19 Q. And, up at the top, it says "Mitchell Scott,"
09:40AM 20 correct?

21 A. Correct.

22 Q. So were you actually the one doing that
23 texting?

24 A. No.

09:40AM 25 Q. That texting was being done by Mark Fawzy,

1 right?

2 A. Correct.

3 Q. And that's the telephone number that you --
4 that JaScott Investments purchased for Mark Fawzy to use
09:41AM 5 on behalf of JaScott Investments, right?

6 A. Yes.

7 Q. So all of the communications Mark Fawzy had
8 connected with this suit, they were on behalf of JaScott
9 Investments, right?

09:41AM 10 A. From the time period of April, correct.

11 Q. Because, at some point in time, you were
12 disengaged with that company in Bangladesh?

13 A. Correct.

14 Q. Now, Mark Thurber was also making
09:41AM 15 communications on behalf of JaScott Investments, wasn't
16 he?

17 A. He was making communications on behalf of
18 himself. So -- so my relationship with Thurber, which
19 is Upwise, is that I have the ability to do deals of my
09:42AM 20 own, right? And I have my own personal -- not only can
21 we issue out loans, but we have the ability to have our
22 own private investors that handle loans, okay? So my
23 relationship with Thurber, or Upwise, is -- so --
24 sorry -- Investments has the ability to issue loans, and
09:42AM 25 we -- and we -- Investments has its own private

1 investors that we work with.

2 So, when we have a situation such as
3 Brandon, where you have multiple bankruptcies, it's
4 not -- it's not a loan that we want to do, so we go --
09:43AM 5 we work with Upwise, who has a lot more vendors than we
6 do, and then they have ISO agreements with these --
7 "they," as in Upwise, have ISO agreements with those
8 vendors, and they can get the deal done.

9 And then what we do is, if -- if Upwise is
09:43AM 10 able to close a deal, we had an informal relationship
11 where I would get, like, a referral fee.

12 Q. And how much of a referral fee would you get
13 for the loan that you proposed to Mr. Callier?

14 A. 30 percent.

09:43AM 15 Q. 30 percent of what?

16 A. Of whatever commissions Western agreed to pay
17 Upwise.

18 Q. And do you know how much those commissions
19 would have been on that loan to Mr. Callier?

09:43AM 20 A. I do not know for sure.

21 Q. So Upwise and JaScott Investments would share
22 the commissions if the deal got closed, right?

23 A. We would get a referral fee, yes.

24 Q. Now, who is Max Williams?

09:44AM 25 A. Max Williams worked for a company called Green

1 Arrow.

2 Q. And how did you get Mr. Callier's name from Max
3 Williams?

4 A. So I don't have a direct relationship with Max
09:44AM 5 Williams. I have a relationship with the owner of Green
6 Arrow. And when they have deals that they don't want to
7 do or that they can't do, they send them over to JaScott
8 Investments. "They," as in Green Arrow, when they have
9 deals that they can't do or they -- they don't want to
09:45AM 10 do, they send them over to JaScott Investments to see if
11 we can do them.

12 So I got -- how I collected his information
13 was we have a -- a spreadsheet that we are given where,
14 if they have X amount of leads this particular day that
09:45AM 15 they think is going to be a good fit for us, they put
16 them on this spreadsheet. I get these spreadsheets, and
17 then I send them out to my team.

18 Q. So let me see if I understand you correctly:
19 Green Arrow somehow got Mr. Callier's name and they
09:45AM 20 didn't think the deal for them was a -- was a fit, and
21 they sent it to you to see if you could do a deal with
22 Mr. Callier; is that right?

23 A. I can't speak to their business model, but my
24 understanding is they give me leads that they don't --
09:45AM 25 they can't handle or they don't want to do, and then --

1 Q. And Mr. -- and Mr. Callier was one of those
2 leads, correct?

3 A. Correct.

4 Q. So, prior to receiving Mr. Callier's
09:46AM 5 information from Green Arrow, you didn't have any
6 relationship with Mr. Callier, did you?

7 A. I did not.

8 Q. And JaScott Investments -- again, when I say
9 "I," JaScott Investments didn't have any relationship
09:46AM 10 with Mr. Callier prior to that time, did it?

11 A. Correct.

12 Q. So, prior to calling Mr. Callier, JaScott
13 Investments had no business with Mr. Scott -- I mean,
14 Mr. Callier, did it?

09:46AM 15 A. Correct.

16 Q. And so that first call to Mr. Callier was a
17 cold call on behalf of JaScott Investments, right?

18 A. I disagree.

19 Q. Why do you disagree?

09:46AM 20 A. Because we were given -- when I think of the
21 word "cold call," it is something where I don't have any
22 information on the caller going into a relationship, and
23 I pick up a call to try to sell that particular person
24 on getting a loan.

09:47AM 25 My relationship with Green Arrow was I knew

1 what his revenue was, his -- the amount of time he had
2 been in business. I knew what his -- his credit score
3 was, why he wanted the money, how much money he was
4 looking for. So all of that information was the reason
09:47AM 5 why we sent out an e-mail and called to see if he was
6 interested. Mr. -- Mr. Callier -- we got all that
7 information from Mr. Callier prior to us ever picking up
8 the phone call or sending out an e-mail.

9 Q. So you did some background -- you had some
09:47AM 10 background information on Mr. Callier before you made
11 that first call to him, correct?

12 A. Mr. Callier provided all that information to
13 Green Arrow, correct.

14 Q. But he didn't provide it to you, did he?

09:47AM 15 A. No.

16 Q. And how did he provide it to Green Arrow?

17 A. It's my understanding it was provided multiple
18 different times. And Web Leads was one of the ways that
19 they got that information, as well as, I believe, via
09:48AM 20 phone call.

21 Q. Say the first one again? Web-what?

22 A. Web Leads.

23 Q. Web Lease?

24 A. Web Leads, L-E-A-D-S.

09:48AM 25 Q. So I'm assuming you believe that Mr. Callier

1 put information into Web Leads and that was sent to
2 Green Arrow somehow?

3 A. Yes.

09:48AM

4 Q. And then Green Arrow sent that information to
5 you, correct?

6 A. Correct.

7 Q. Now, do you know if you have a signed, written
8 consent from Mr. Callier for you to call him about a
9 loan?

09:48AM

10 A. I do not.

11 Q. And do you know if Green Arrow has a signed
12 written consent from Mr. Callier to call him about a
13 loan?

09:49AM

14 A. "A signed" or Web Leads or -- or did he fill
15 out information online? I guess I really can't speak to
16 Green Arrow's business arrangements. I know that
17 they -- that that information was provided by
18 Mr. Brandon, yes. I know that, but I can't confirm if
19 it was signed or not.

09:49AM

20 Q. And -- and you don't have any signed consent
21 for JaScott Investments to call him, do you?

09:49AM

22 A. What I have is the verbal agreement -- the
23 verbal that, when we called him and asked if he was
24 looking for a loan, he said "yes." That is what I have
25 as -- as proof that he was interested in getting a loan.

1 And then he corroborated the story on that -- on that
2 phone call with what we received from Green Arrow.

3 Q. Okay. But, prior to that first phone call, he
4 did not give JaScott Investments consent to call him,
09:50AM 5 did he, prior to the first phone call?

6 MR. NEVAREZ: Objection, calls for
7 speculation.

8 Q. (BY MR. MILTENBERGER) You can tell me what you
9 know. If he did, you can tell me how he did. Did --
09:50AM 10 prior to the first phone call, did he give JaScott
11 Investments permission to call him?

12 A. As part of the relationship with Green Arrow,
13 it is -- the one thing that they ask is -- the one thing
14 that they say is, We're going to get -- We thank you for
09:50AM 15 getting your information. We're going to have someone
16 reach out to you. And they are going to be able to help
17 you with this loan. And they asked if that was okay.

18 That is standard process for Green Arrow.
19 So I believe that verbal consent was given.

09:51AM 20 Q. To Green Arrow?

21 A. To Green Arrow, for us to follow up with a
22 phone call. That is -- that is standard operating
23 procedures between our two organizations.

24 Q. Okay. So that's standard operating procedure;
09:51AM 25 meaning, that should happen. But you don't have any

1 evidence and don't know that that did happen, do you?

2 A. We do not -- we no longer- I do not have that
3 tape-recorded phone call. So, correct, I don't have
4 that -- that recorded information for that --

09:51AM 5 Q. So when you -- when you get in front of the
6 jury, you're not going to be able to raise your hand and
7 swear and say, "I know for certain that Mr. Callier told
8 Green Arrow that it was okay for someone to call him,"
9 are you?

09:51AM 10 A. Correct.

11 Q. Now, after you received that information from
12 Green Arrow, what did you do with it?

13 A. That information is -- is populated on a
14 spreadsheet. I took the -- the lead from Mr. Callier,
09:52AM 15 and I put it in our system that generates a standard
16 e-mail. So, once I download it into my system, an
17 e-mail from our referral system goes out to everybody
18 that we've got leads from that day. And it's generic
19 information introducing the company, as well as
09:52AM 20 highlighting where we got the information from and the
21 information that was communicated to us by the web lead
22 or, you know, the refer- -- our referring partner.

23 Q. And what did you do with the phone number,
24 then?

09:53AM 25 A. I didn't do any- -- what do you mean? I don't

1 think I understand.

2 Q. Well, how did the telephone call get generated?
3 I want to follow the trail from you receiving
4 Mr. Callier's phone number to how someone actually made
09:53AM 5 a call to Mr. Callier. What did you do with that
6 telephone number?

7 A. That information, like I said, is uploaded to a
8 spreadsheet that we all share. And, when it's on that
9 spreadsheet, we share -- that information is
09:53AM 10 communicated via spreadsheet to, in this scenario,
11 Sygnius Group.

12 Q. And then Mark Fawzy picked that phone number up
13 from that spreadsheet and he called Mr. Callier,
14 correct?

09:53AM 15 A. Correct.

16 Q. And he did that as a customer service
17 representative for JaScott Investments, correct?

18 A. He did that on behalf of JaScott Investments,
19 correct.

09:53AM 20 Q. Now, prior to that phone call, you don't have
21 any evidence that Mr. Callier knew Mark Fawzy, do you?

22 A. I do not.

23 Q. So, from Mr. Callier's viewpoint, he was
24 receiving a cold call from someone he didn't know,
09:54AM 25 right?

1 MR. NEVAREZ: Objection, calls for
2 speculation.

3 Q. (BY MR. MILTENBERGER) You can answer.

4 A. I -- I disagree. From his perspective, he knew
09:54AM 5 that he communicated this information earlier, that --
6 and multiple times, as a matter of fact, for multiple
7 companies. And he knew he communicated this information
8 to -- to someone and was told that that information --
9 that they were going to call back.

09:54AM 10 And, if you hear the first recording, he
11 says, I got -- I got a call from someone, and he says, I
12 heard you was looking for a loan, and Mr. Callier said
13 "yes." So, in terms of speculation, I have every reason
14 to speculate that that call did happen, and that he
09:55AM 15 communicated those facts to Green Arrow, who
16 communicated those facts to us.

17 Q. Okay. I understand that's what you believe,
18 and the jury will get to decide that. But, when
19 Mr. Callier received the call from Mr. Fawzy, he had no
09:55AM 20 idea who Mr. Fawzy was, did he?

21 MR. NEVAREZ: Objection, calls for
22 speculation.

23 Q. (BY MR. MILTENBERGER) You can answer.

24 A. I -- I'm answering that question. He was told
09:55AM 25 that -- he -- he put information out there to get a

1 callback for a loan. He was called back. And, on that
2 first call, they said, This is Mark; I've received
3 information from someone that says you're looking for a
4 loan. He communicated "yes."

09:55AM 5 That, to me, has -- I -- I don't see how
6 that was a cold call. In my -- from my perspective, if
7 I'm cold-calling you, I'm asking, Hey -- I'm trying to
8 sell you on the idea that you need to take the loan, not
9 that that demand was already there. So -- so --

09:56AM 10 Q. Okay. I -- I understand we disagree about a
11 cold call, and -- and that's okay that we do.

12 At some point in time, after Mr. Fawzy
13 communicated by text -- well, let me back up: The phone
14 calls were on behalf of JaScott Investments from
09:56AM 15 Mr. Fawzy, right?

16 A. In the month of April, correct.

17 Q. And, in the month of April, the texts that
18 Mr. Fawzy sent to Mr. Callier were on behalf of JaScott
19 Investments, correct?

09:56AM 20 A. Correct.

21 Q. And the e-mails that Mr. Fawzy used was a
22 JaScott Investment e-mail address, correct?

23 A. Correct.

24 Q. So anybody that communicated with Mr. Fawzy
09:57AM 25 regarding your company, it would appear to them that

1 Mr. Fawzy's a representative of your company, right?

2 A. Correct.

3 Q. Now, at some point in time, Mr. Callier text
4 Mr. Fawzy and said, No more calls, no more texts; please
09:57AM 5 don't call me or text me anymore.

6 Did you see that text?

7 A. No. And I don't believe that text occurred
8 in -- in the fashion in which you're -- you're saying it
9 did.

09:57AM 10 Q. Have you seen that text?

11 A. I have seen that text when I got the -- when I
12 received the information from the -- from being served,
13 was the first time I saw that text.

14 Q. So Mark Fawzy received that text, but you
09:57AM 15 didn't receive it, right?

16 A. Could you repeat that question?

17 Q. Yes. Mark Fawzy received the text from
18 Mr. Callier, but you personally didn't receive it,
19 correct?

09:58AM 20 A. Correct.

21 Q. And Mark Fawzy was told, Don't call or text me
22 anymore, correct?

23 A. No. He -- he was told, I don't know who you
24 are. So, after -- after Callier said that, I'm going
09:58AM 25 to -- I want to accept the loan -- after Callier said --

1 in -- in the DocuSign, he communicated an e-mail --
2 well, he communicated in the DocuSign, I agree to accept
3 the terms of this loan. Only thing I don't like is that
4 you're going to look into my account, but I accept the
09:58AM 5 terms of this loan. He received an e-mail -- a text
6 message saying, I don't know who you are.

7 So no, that -- in the way you're phrasing
8 that, that didn't happen. And -- and we were trying to
9 clarify, Yes, you do know who we are. You've sent in
09:58AM 10 the application. You've sent in your bank statements.
11 You sent in a voided check. You told me you were going
12 to move forward with the loan at the lake. We -- we
13 were calling for that.

14 Q. Okay. So, after Mark Fawzy received the text
09:59AM 15 that said, Stop calling or texting me, Mark Fawzy
16 continued to call and text, correct? Did he or did he
17 not?

18 A. Mark Fawzy received a text message saying, I
19 don't know who you are. 50 people are calling me. Stop
09:59AM 20 texting me. But this was right after the --

21 Q. Stop right there. After receiving that text,
22 Mark Fawzy continued to call and text Mr. Callier,
23 correct?

24 A. After that text, Mark Fawzy tried to get
09:59AM 25 clarification, as well as Dave Thurber, on who that text

1 was directed to.

2 Q. And they did that by calling and texting
3 Mr. Callier, right?

4 A. Yes.

09:59AM 5 Q. That's a "yes" or "no" -- okay.

6 Now, are you aware of the Telephone
7 Consumer Protection Act?

8 A. I am not as aware of that as everyone else on
9 this phone call, because we don't actually cold-call.

10:00AM 10 So I -- I am not as versed in it as yourself, sir, and
11 Mr. Nevarez and Brandon.

12 Q. Are you aware that you're required to have
13 consent before you call someone who's on the "Do Not
14 Call" list?

10:00AM 15 A. I don't -- yes, I am aware you cannot call --
16 you shouldn't -- I'm aware that you cannot cold-call
17 anyone on the "Do Not Call" list.

18 Q. Well, you're aware you cannot call anybody on
19 the "Do Not Call" list unless you have consent, right?

10:01AM 20 A. Unless they reach out in terms of looking for a
21 loan through a web lead or -- unless they reach out
22 to -- unless they reach out looking for a loan. And
23 that's what I -- I believe what happened here.

24 Q. Okay. So, if they reach out looking for a
10:01AM 25 loan, does that mean any loan company in the world can

1 call them?

2 A. I don't know. I don't -- I don't know how the
3 law reads in that fashion. But the only people who
4 would know he was looking for a loan are the people he
10:01AM 5 reached out to. So I don't -- I don't know how to
6 answer that question.

7 Q. Now, the purpose of all of the calls and texts
8 from JaScott Investments, itself or through its customer
9 service representative, Mr. Fawzy, was to close a loan
10:01AM 10 with Mr. Callier, correct?

11 A. It was to see if we could help him secure a
12 loan, if that's what he was looking for, yes.

13 Q. And that was the services that JaScott
14 Investments provided, correct?

10:02AM 15 A. When you say that's the services JaScott,
16 you're saying -- are you -- ask me the question one more
17 time.

18 Q. Yeah. You weren't calling him to talk about
19 the NFL football games? You were calling him to try to
10:02AM 20 sell your services to him, right?

21 A. We were calling to see if we could be a
22 resource for someone who called requesting, looking for
23 a loan.

24 Q. And -- and by being "a resource," you would get
10:02AM 25 paid for that service if the loan closed, right?

1 A. Yes. Most of the time, that is -- that does --
2 that is what occurs.

3 Q. And JaScott Investments is in the business of
4 being a resource to get compensated when a loan closes,
10:03AM 5 right?

6 A. JaScott Investments is in the business of being
7 a resource for everyone, regardless if we get paid on
8 the loan or not. The -- my -- my philosophy on business
9 is, I get -- if everybody is coming toward me for advice
10:03AM 10 or consulting, that at the end of the day, yes, I will
11 get paid. But I don't really care about getting paid on
12 an individual prospect, as long as I have channels of
13 prospects and leads coming to me for advice.

14 So, for instance, it would have been up to
10:03AM 15 Thurber to agree to give me compensation for that loan,
16 because I was not an ISO of Western. I'm very
17 comfortable with that arrangement, because, A, I had a
18 good relationship with Upwise; but more so than that, I
19 want people to continue to come to me so that I am the
10:03AM 20 resource they come to first.

21 So it's not necessarily about the money.
22 It was about being a resource to a wide scope of people,
23 and then we can provide the best solutions for them.

24 Q. So you -- you're promoting your business,
10:04AM 25 whether you get compensated or not, right?

1 A. Yes.

2 Q. So the calls to Mr. Callier were to promote
3 your business and provide your business services to him,
4 right?

10:04AM 5 A. My call to Callier was to see if we could help.

6 Q. Okay. And to "help," you would provide your
7 business services to him, right?

8 A. If -- or -- or direct him to somebody who could
9 help. And that's what --

10:04AM 10 Q. Okay. Let me just get a "yes" or "no" answer
11 first. Your call to Mr. Callier was the purpose of
12 providing your business services to Mr. Callier,
13 correct?

14 A. My call to Mr. Callier was to see if I could
10:04AM 15 help. If my -- if my business services did help, great,
16 I will take it. If not, then you go to someone who can
17 help.

18 Q. It was your hope that your business services
19 would help, correct?

10:05AM 20 A. Correct. That is also always my hope.

21 Q. And that's your primary hope, isn't it?

22 A. That is my primary hope, I agree.

23 Q. What finally convinced you to stop calling or
24 texting Mr. Callier?

10:05AM 25 A. Mark got sick and went to the hospital around

1 the 23rd. And, at that point in time, he did not
2 come -- we -- Mark was sick for like two weeks. And, at
3 that point in time, we did not renew our agreement with
4 Sygnius Group moving forward.

10:05AM 5 So, the very -- the very last phone call we
6 got from Mr. Callier -- and -- and that is recorded --
7 he said, Hey, have you had the opportunity to look at my
8 loan? And Mr. Callier said, Give me 10 minutes, and
9 I'll call you right back. So -- so, we had so reason to

10:06AM 10 believe that he wasn't interested in this loan.

11 So it was just by luck that Mark went to
12 the hospital and that ended the -- that ended the
13 processes. Otherwise, as long as Mr. -- Mr. Callier
14 would have continued to say he was interested or to give
10:06AM 15 me a call back, or that he hadn't looked at the
16 documents yet, or to send him another e-mail to make
17 sure it was at the top of the e-mail file -- as long as
18 he would have continued to go down that path, I -- I
19 would imagine Mark would've kept calling him. So it was
10:06AM 20 just by luck that he went to the hospital.

21 Q. Well, after Mark -- after you discontinued your
22 relationship with Fawzy, somebody from JaScott
23 Investments continued to call Mr. Callier, didn't they?

24 A. Disagree. No.

10:07AM 25 Q. Okay.

1 A. I never called Mr. Callier.

2 Q. Does JaScott Investments have an internal "Do
3 Not Call" list?

10:07AM

4 A. So it's a blank list, because we don't cold-
5 call. So --

6 Q. Okay. Do you have an internal "Do Not Call"
7 list, yes or no?

8 A. There -- we -- we do not have anyone on a list
9 that has told us to do not call them.

10:07AM

10 Q. Do you have procedures that describe an
11 internal "Do Not Call" list?

12 A. Yes.

13 Q. And what are those procedures? Do they mention
14 "internal 'Do Not Call' list"?

10:08AM

15 A. Well, basically, the procedures are simple.
16 We -- we get tons of leads a day. If someone doesn't
17 want to be called, flag them into the system that they
18 don't want to be called, and no one calls them again.

19 Q. And do you have that in writing somewhere?

10:08AM

20 A. I have a -- I have a phone script that says
21 that we don't cold-call. I -- I would have to -- I
22 haven't read that policy, so I don't know exactly what
23 we have in writing. So I -- I'd have to get back to you
24 on that one, Mr. Miltenberger. But we --

10:08AM

25 Q. So --

1 A. -- we don't cold-call.

2 Q. Okay. So, basically, you don't need an
3 internal "Do Not Call" list because you don't cold-call,
4 right?

10:08AM 5 A. Correct.

6 Q. And you don't have any written procedures about
7 an internal "Do Not Call" list because you don't need
8 one, because you don't cold-call, do you?

9 A. We -- so if -- if -- let's say someone wants to
10 have a loan, right? They go down the process, and then
11 they say, I'm not interested anymore. That is the --
12 the extent of a "Do Not Call" list for us. If they're
13 not interested anymore and they say that, do not call.

14 Q. And do you have that in written procedures
10:09AM 15 somewhere?

16 A. I believe so. I'd have to go look at the
17 procedure to see exactly what it says.

18 Q. Have you given those to your attorney, those
19 procedures?

10:09AM 20 A. I believe so. Like I said, I -- the thing that
21 I'm talking about, I -- I believe I've given that, but I
22 don't know exactly what it says.

23 Q. And would that be a document that's standard
24 operation procedures for phone calls?

10:10AM 25 A. Correct, yes.

1 Q. And that's the document that you think
2 comprises your internal "Do Not Call" policy and
3 procedures, correct?

4 A. Correct.

10:10AM 5 Q. Who have you communicated with from Green Arrow
6 regarding the lead or this case?

7 A. Jack Dawson.

8 Q. Who?

9 A. Jack Dawson.

10:11AM 10 Q. And what did Mr. Dawson tell you?

11 A. Repeat the question -- what did he tell me
12 about what?

13 Q. Did you have any conversation with Mr. Dawson
14 about this case?

10:11AM 15 A. No. I -- I really -- for the most part, I -- I
16 introduced him to Michael's team, Mr. Nevarez's team,
17 but I have not been in on those -- those conversations.

18 Q. Did you ever call Mr. Dawson and say,
19 Mr. Dawson, I'm getting sued over the lead you sent me.
10:11AM 20 What's the deal here? Do you have any information on
21 this guy?

22 A. Yes. I'm -- I'm quite positive that happened.

23 Q. And what did Mr. Dawson tell you?

24 A. I -- I don't recall that conversation.

10:12AM 25 Q. Have you had any conversation with Max Williams

1 about this case?

2 A. I've never spoken to Max Williams.

3 Q. And you were paying Mr. Fawzy's company \$150 a
4 week?

10:12AM 5 A. Yes.

6 Q. And how much -- let me see. How many hours was
7 Mr. Fawzy's company expected to work for that \$150 a
8 week?

9 A. We never discussed that.

10:13AM 10 Q. I mean, were they expected to be full-time
11 customer service representatives?

12 A. No, no, no. So we had no -- no -- we had no
13 contract or anything like that that outlined work
14 schedules or anything like that. The -- the only thing
10:13AM 15 they needed to do was to collect the paperwork.

16 Because -- because, remember, these -- all of these
17 people had already expressed interest in -- in receiving
18 loans.

19 So we -- it -- it was -- and it was a trial
10:13AM 20 period, right? We didn't even know how it was going to
21 work out. So we were just trying to play it out by ear.
22 So we -- there was no formal agreement or anything in
23 writing.

24 Q. Well, did you think they would only work five
10:13AM 25 hours a week?

1 A. I mean, they reached out to me to be a partner,
2 so I figured that they would make it work, if they
3 wanted it to work. And so, at the end of the day, we
4 were just trying to figure out if they were going to be
10:14AM 5 an asset to me or not, or --

6 Q. Oh, I understand that. I'm just trying to
7 figure out: How many man hours did you think you needed
8 help with? I mean, five hours a week, 40 hours a week,
9 ten hours a week? What did you expect them to spend as
10:14AM 10 your representative?

11 A. So -- so yes, we were trying to figure all of
12 that stuff out. That was the purpose of this. The --
13 the challenge with the business and amount of web leads
14 and leads that we get in is that you've got to stay in
10:14AM 15 front of them, right? So -- so what we were trying to
16 figure out was what is the best way to -- a lot of
17 times, what happens is the first person they speak to is
18 the person that they build a relationship with, and that
19 they -- they tend to trust and -- that our -- that our
10:15AM 20 prospects tend to trust and go with.

21 So we were trying to figure out, when is
22 the best time to call, right? Because you never want to
23 call at 8 o'clock, 9 o'clock, 10 o'clock, because
24 they're busy. So you wanted to call really only in the
10:15AM 25 afternoon, when their day's settled. So, to answer your

1 question, we were still trying to figure all of that
2 stuff out, and there was no expectations.

3 Q. And your standard operating procedures say you
4 receive 30 to 60 leads a day?

10:15AM 5 A. Correct.

6 Q. So did you expect Mr. Fawzy to handle those 30
7 to 60 leads per day?

8 A. No. We -- we had multiple people on our teams.

9 Q. How many people did you have working those 30
10:15AM 10 to 60 leads per day?

11 Let me back up: How many people in
12 Bangladesh did you have working those 30 to 60 leads per
13 day?

14 A. So we'd just hired Sygnius Group to do that.
10:16AM 15 So we hired Sygnius Group in order to -- to handle the
16 leads that I gave them. But that -- that 30 to 60 leads
17 that you're talking about -- so that policy wasn't
18 written for Sygnius Group. It was written for the
19 organization as a whole. And so that's why -- like,

10:16AM 20 that was really -- so we get a bunch of web leads that
21 come in. And a lot of times, what happens is they want
22 to -- they don't want to provide us the same information
23 that we got from Mr. Callier, like revenue, you know --

24 Q. Okay. Let me back up: I'm just trying to find
10:16AM 25 how many employees Sygnius had working on your behalf.

1 A. To my knowledge, it was Mark -- Mark was the
2 only name I was given. But I don't -- I don't have any
3 oversight over that business, so they had the ability
4 to, you know, probably do whatever they wanted to do, as
10:17AM 5 long as they were getting the -- the calls back, or as
6 long as we were getting applications.

7 Q. Besides yourself, how many other employees are
8 there of JaScott Investments?

9 A. I am the only employee of JaScott Investments.

10:17AM 10 Q. So you had nobody to work the loans, other than
11 this Sygnius, during that period of time you were using
12 them; is that right?

13 A. No, I have other contractors that do it. I'm
14 the only employee, but I -- I operate with -- from a
10:17AM 15 contractor model.

16 Q. And how many other contractors did you have
17 working those leads?

18 A. I don't know.

19 Q. Approximately? I mean, I just want to know the
10:17AM 20 size. Is it two or three or is it 200?

21 A. No, probably two or three.

22 Q. Okay. And where were those contractors
23 located? Were they in the United States?

24 A. Correct.

10:18AM 25 Q. So you went offshore to try to get that cheaper

1 price, right?

2 A. No, I went offshore to get a better, more
3 consistent model. That was the main reason why. But it
4 didn't -- it did help that it was also cheaper. So,
10:18AM 5 yes.

6 Q. Very cheap. I see \$150. That seems extremely
7 cheap, doesn't it?

8 A. It was way better than what I was -- what I was
9 doing before. So, yes.

10:18AM 10 Q. Now, when you say "web leads," you're just
11 describing any lead off the web, not a particular
12 website; is that correct?

13 A. So, a lot of times, we market on Facebook and
14 Instagram, and we do have particular websites and stuff
10:18AM 15 like that. But, most of -- when I talk about "web
16 leads," we have a landing page on Facebook and
17 Instagram, and so does Green Arrow, so does HelloTech.
18 They -- we have -- that's where most of the leads come
19 from, is Facebook and Instagram.

10:19AM 20 Q. Okay. So do you know the particular web page
21 that Green Arrow claims it got its information from
22 Mr. Callier from?

23 A. No, I do -- I do not -- I don't have that
24 information.

10:19AM 25 Q. So -- and I don't want to put words in your

1 mouth, but you're just hoping Green Arrow did it right,
2 aren't you?

3 A. No. So I don't know all of their internal
4 processes, so to a cert- -- a certain extent, I'm hoping
10:19AM 5 they do it right every time. But we -- but I have -- I
6 have combed through all of their processes, I've combed
7 through -- they audit a lot of the information before I
8 get it, so I -- I walked through their processes before
9 we ever agreed to start this informal partnership.

10:20AM 10 So -- and again, this is the only issue
11 I've -- I've ever had with this model, was -- is this
12 particular case. So I'm very confident that the model
13 that was audited was, in fact, the one that happened on
14 this particular case.

10:20AM 15 Q. And what you think happened is that Mr. Callier
16 went to some website of Green Arrow and inputted all
17 this information that you received from Green Arrow,
18 right?

19 A. That, I'm not -- I don't know. So, at some
10:20AM 20 point, something like that happened, yes. But they
21 would have called to confirm that information, I
22 believe, at some point. But again, I don't under- -- I
23 don't know all their processes. But -- but that
24 information was given somehow by -- via Mr. Callier.

10:21AM 25 Q. Well, I'm looking at your Exhibit Number 1 in

1 this case, and it's a spreadsheet that shows, date
2 April 2nd, 2022, Max Williams, Brandon Callier, phone
3 number, company, e-mail address, loan amount.

4 Now, it doesn't have any of the additional
10:21AM 5 information you asked -- doesn't have anything about
6 revenue, purpose of funds, time in business. It doesn't
7 have any of those qualifying fields that you mentioned
8 earlier.

9 A. That information is removed because, as we
10:22AM 10 mentioned earlier, Mark wasn't an employee of -- of
11 JaScott Investments. And Green Arrow and -- and
12 HelloTech did not like the fact that I was -- I would be
13 sharing all of this information outside of my
14 organization. So that -- that information was removed
10:22AM 15 because of that.

16 Q. So you received more information than what's
17 shown on Exhibit Number 1, right?

18 A. Correct.

19 Q. And where is that document of the information
10:22AM 20 you received? Do you have that document?

21 A. No, it is re- -- it is deleted, so it won't be
22 exposed to -- to outside of the company.

23 Q. When was it deleted?

24 A. Very, very, very soon after we got the lead in.

10:23AM 25 Q. Okay. So you got the lead in, you deleted all

1 the personal information except for what we just read
2 about on the spreadsheet, and you sent that spreadsheet
3 or that information to Mr. Fawzy somehow, right?

4 A. Correct.

10:23AM 5 Q. And you mentioned Green Arrow and somebody
6 else. Who else -- you said someone else?

7 A. HelloTech. So HelloTech is a --

8 Q. Hello Texas?

9 A. No. HelloTech, T-E-C-K [sic].

10:23AM 10 Q. And who is that?

11 A. It's -- it's -- it's the same relationship.
12 They -- they market under the name "HelloTech" when they
13 do their Facebook leads and Instagram leads. So it's --
14 it's the same kind of organization.

10:23AM 15 Q. So it's Green Arrow marketing as HelloTech, or
16 is it a separate company from Green Arrow?

17 A. It's a separate company from Green Arrow.

18 Q. So when -- you got this lead from Green Arrow,
19 not from HelloTech, right?

10:24AM 20 A. So HelloTech is the marketing arm, of which
21 they -- so Green Arrow is the lender -- is the lender,
22 right? So it's -- it's -- basically, it's the same --
23 it's the same company, but they market under their --
24 their Facebook comes under HelloTech sometimes. And,
10:24AM 25 like I said, I don't understand all the ins and outs of

1 that, but those are the two -- the two names that --
2 that are used.

3 Q. Do you know if Green Arrow or HelloTech called
4 Mr. Callier?

10:24AM 5 A. I don't know that for sure.

6 Q. Did you ever ask anybody from Green Arrow or
7 HelloTech whether they called Mr. Callier?

8 A. No.

9 Q. So, if I go to Bank of America and asked for a
10:25AM 10 loan, in your opinion, am I telling Citibank they can
11 call me about that loan?

12 A. In that -- in that scenario, no. But that's
13 not what happened here. I believe that information was
14 commun- -- he -- I believe that they -- that they
10:25AM 15 followed their process, and they said -- as they'd done
16 with me tens of times, Mitch is here -- even when I do a
17 warm transfer, they -- they've even warm-transferred
18 calls to me, and they say, JaScott is here, and they're
19 going to be able to help you -- help you from here.

10:26AM 20 Q. So do you -- do you think Green Arrow or
21 HelloTech told Mr. Callier, I'm going to have someone
22 from JaScott call you?

23 A. If they -- yes, I believe -- I believe that it
24 was communicated that someone was going to be reaching
10:26AM 25 out to him to help -- that was a good fit to help him

1 get this loan. Yes, I agree -- I believe that that's
2 what happened.

3 Q. Do you believe they told Mr. Callier that
4 JaScott Investments would be reaching out to him?

10:26AM 5 That's a "yes" or "no."

6 A. I -- I can't confirm that.

7 Q. Okay. So, going back to my example of Bank of
8 America: If I call Bank of America, ask for a loan,
9 they say, We'll have someone call you back and reach out
10:26AM 10 to you, do you think I've consented for Citibank to call
11 me, then?

12 A. I do this in the mortgage industry all the
13 time. A realtor says, I'm going to have someone reach
14 out to you to help you find a loan. So, to me, this is
10:27AM 15 no different. I -- they say, I'm going to have one of
16 my partners reach out to you to -- to service this loan
17 or to collect this information. So yes, I agree, and
18 then that -- that's why I use someone's name. So I may
19 say, This realtor just gave me her information and told
10:27AM 20 me to call you --

21 Q. Wait a minute. We're not talking about a
22 realtor. We're talking about this particular
23 transaction.

24 A. You gave the analogy of Citibank. I'm giving
10:27AM 25 you another analogy of how this works the same way in

1 the mortgage industry.

2 Q. Okay. Let me stay with my analogy of Bank of
3 America and Citibank, and you answer it. If I call Bank
4 of America and ask for a loan and they tell me, Okay,
10:27AM 5 someone will call you back and reach out to you, do you
6 think I've given consent to Citibank, then, to call me
7 back? That's a "yes" or "no" question.

8 A. That -- that doesn't apply, because -- because
9 what was actually said --

10:28AM 10 Q. No, I'm not asking if it applies. I'm asking
11 you, in that situation, do you believe that I've given
12 consent to Citibank to call you back -- call me back,
13 yes or no?

14 A. You are -- if you -- if you say "okay," you are
10:28AM 15 giving consent to someone to call you back to help
16 you -- who can better help you get this loan. So you
17 are giving consent to be called back to -- to help get
18 this loan, yes.

19 Q. Anyone in the world can call me back, then,
10:28AM 20 right? I just want to know your understanding of how
21 you apply the TCPA to your business.

22 A. I'm -- I'm talking about not how I apply TCPA
23 to my business; I'm talking about how I would apply a
24 referral to my business. A referral is -- this is --
10:28AM 25 this is how I believe it works, right? Like, if I can't

1 help you and somebody else can help you and I find out
2 that somebody can help you, then -- and you say, Yes,
3 it's okay for me to be called by someone that you
4 believe that can help me, I believe that's you
10:29AM 5 consenting that -- that -- that someone who can help you
6 can call you.

7 Q. Okay. Thank you for explaining that to me.

8 Now, that text where -- that text where

9 Mr. Callier told Mr. Fawzy, Don't call or text me

10:29AM 10 anymore, that was the telephone number that JaScott
11 Investment had provided to Mr. Fawzy, right?

12 A. Correct.

13 Q. And that was the telephone number that
14 Mr. Fawzy had been communicating with Mr. Callier with,
10:30AM 15 right?

16 A. Correct.

17 Q. Okay. I'm going to share my screen again with
18 you. Can you see that document?

19 A. I do, yes.

10:31AM 20 Q. And can you see down here where it says,
21 4/19/2022. You see that date?

22 A. Yes.

23 Q. Now, this is your attorney's exhibit list for
24 the trial in this case, and it said, Brandon Callier
10:32AM 25 texted Mark Fawzy.

1 See that?

2 A. Yeah.

3 Q. And it describes, Text stating do not call or
4 text again.

10:32AM 5 See that?

6 A. Uh-huh.

7 Q. So you agree with me that you received a text
8 stating, Do not call or text again, right?

9 A. I agree that I received the text saying that I
10:32AM 10 didn't know who you were, and that's why you should not
11 text again. But --

12 Q. It's saying, Whoever you are, don't call or
13 text me again, right?

14 A. I -- I don't believe it says -- that's not
10:32AM 15 my -- my understanding is, since I don't know who you
16 are, don't call me again.

17 Q. Oh. But, if I know who you are, you can call
18 me or text me?

19 A. Well, if you said that you wanted to have this
10:33AM 20 money in your bank account in two -- in -- in the next
21 two days, and if you said you were ready to move forward
22 with the loan at the lake, I believe that -- that if --
23 if it was -- if it was me -- and this looks like it was
24 sent to 50 people.

10:33AM 25 But, if you were really trying to get me to

1 not call you back, you would say, Hey, JaScott
2 Investments, thank you so much for all you've done. I'm
3 no longer interested in the loan. That is -- is clearly
4 defined that you mean Mark or JaScott Investments to not
10:33AM 5 call you back.

6 In this scenario, you said, Hey, so many
7 people are calling you, I don't know who you are.
8 That -- that's not -- that could -- could mean me or
9 anyone else. And you see Thurber, when he responded to
10:33AM 10 that, he said, You know this is Dave from Upwise, right?
11 You -- this -- the guy that you've been working with
12 that says you have the \$50,000 contracts.

13 And, at that particular point in time,
14 if -- if Mr. Callier meant for that text message to be
10:34AM 15 us, he would have said, I -- Yes, Dave, stop calling me
16 back. I meant that for everybody. But he didn't. He
17 kept it vague. And -- and then -- and then, after that,
18 the -- Mr. Callier seems to be confused too, because he
19 says, Oh, you know, I must have -- I must not have seen
10:34AM 20 the -- the application or I must not have seen the
21 contract. Why don't you send it to me again so it's at
22 the top of my inbox?

23 So, clearly, everybody was confused. And
24 it doesn't appear that that text message was meant for
10:34AM 25 us at all, because, when Mr. Callier had him on the

1 phone, he would've reiterated the text message. But
2 that didn't happen.

3 Q. And you said you think it went to 50 people.
4 How do you know that? For whom did that text message --
10:35AM 5 how can you say that it went to 50 people?

6 A. That -- that's the problem with the text
7 message. It's so vague that it looks like there's -- it
8 appears to me that he's saying, I'm sending this --
9 there's 50 people calling me; I'm sending this out --
10:35AM 10 this text message out to 50 people all at one time.

11 That -- that's the way the text message
12 reads, to me. And that's -- it just seems so vague.
13 And that's why a clarification from Dave Thurber was
14 requested, that we never got. And then again -- again,
10:35AM 15 the client must have been confused, because he says, Oh,
16 I didn't get -- I must have missed the -- the
17 application or I must have missed the contract. Why
18 don't you send it to me again so that it's at the top of
19 my e-mail?

10:35AM 20 Clearly, everybody was confused.

21 Q. Has JaScott Investments ever purchased any
22 leads?

23 A. We have in the past.

24 Q. And how did you do that? Explain that to me.

10:36AM 25 A. We went on Fiverr, and we asked someone to give

1 us, like, ten leads.

2 Q. What'd they do?

3 A. They -- they called some people and they got us
4 ten leads, and none of them did anything, so we -- we
10:36AM 5 stopped that a long time ago. So we got --

6 Q. Is your personal phone number -- cell phone
7 number on the "Do Not Call" list?

8 A. I don't believe so.

9 Q. Do you get a lot of unsolicited cold calls on
10:37AM 10 your cell phone?

11 A. Nowhere near what the client states that
12 he gets. But I may get -- I get some, for sure, but
13 nothing like -- nothing like what you guys are -- are
14 claiming to have received.

10:37AM 15 Q. Do the calls that you get annoy you?

16 A. No, I -- I don't -- I might get, like, five a
17 month. I mean, I -- I'm not on a "Do Not Call" list. I
18 don't have my phone number out on business websites.
19 I'm not actively pursuing -- I'm not actively pursuing
10:37AM 20 litigation. TPC- -- so I don't get anywhere near the
21 amount of calls that would be annoying. And I -- so
22 yeah, to answer your question, no, I don't -- I just
23 hit -- hit "silence," and the four or five times it
24 happens a month or every two months doesn't bother me.

10:38AM 25 Q. Now, Mr. Callier receives calls from people

1 that he believes are unsolicited calls, and he attempts
2 to hold those people accountable for that. Do you have
3 any problem with him doing that?

10:38AM 4 A. I have -- I have a problem with initiating
5 the -- initiating the transaction, and then, when we
6 respond back to it, then we start the scam. And that --
7 that's the part of the problem that I -- I do have a
8 problem with, sir.

9 Q. Okay. So let -- let me just go to the first
10:38AM 10 one: He gets an unsolicited call, didn't ask for any
11 services, didn't ask for anything. He gets an
12 unsolicited call to sell him outdoor speakers, and he
13 attempts to hold that company accountable for that
14 unsolicited call. Do you have any problem with that?

10:39AM 15 A. Yes. If he didn't -- if -- no, if he did not
16 initiate the call and someone randomly called him and
17 tried to sell him something, I have -- I -- I have no
18 issue with -- with that.

19 Q. And, if that speaker company after he talks to
10:39AM 20 them and says, Who are you? Send me an e-mail showing
21 me who you are, and they do. And he tells them don't
22 call me anymore. Do you have any problem with him
23 attempting to hold that company responsible for
24 continuing to call him in that instance?

10:39AM 25 A. Well, that's -- I mean, are -- are you ref- --

1 are you claiming that that's -- are you asking me a
2 hypothetical question or are you --

3 Q. Yes.

4 A. -- implying that that's what happened here?

10:39AM 5 Q. I'm asking a hypothetical question.

6 A. You're not implying that that's what I believe
7 that happened here?

8 Q. That's correct. I understand you think
9 something different.

10:40AM 10 A. Well, we have the tapes. We -- we have it on
11 tape. We have everything in --

12 Q. I understand. I'm not talking about this case.
13 I'm talking about that hypothetical and about your
14 feelings about him enforcing the TCPA.

10:40AM 15 MR. NEVAREZ: Well, I'm going to have to
16 object to these hypotheticals. It calls for
17 speculation. It's irrelevant. It's immaterial.

18 Q. (BY MR. MILTENBERGER) It goes to your views on
19 the TCPA. So your attorney can object --

10:40AM 20 MR. NEVAREZ: No, no, no. I'm going to
21 object because it has nothing to do with the TCPA. It
22 has to do with speakers that somebody initiated the want
23 to buy personal speakers. What -- what we have in front
24 of us is a business relationship that was es- --

10:40AM 25 initiated by Mr. Callier and developed by Green Arrow.

1 MR. MILTENBERGER: Are you telling your
2 client not to answer the question?

3 MR. NEVAREZ: No. I'm filing my objection.

4 MR. MILTENBERGER: Okay. Your objection's
10:41AM 5 on the record.

6 Q. (BY MR. MILTENBERGER) Now, Mr. Scott, you can
7 now answer. In that circumstance, do you have any
8 problem with Mr. Callier enforcing the TCPA?

9 A. I'm sorry. Ask me -- ask me one more time.

10:41AM 10 Q. Yes. A company calls Mr. Callier, solicits to
11 sell him outdoor speakers. He asks -- he asks --
12 unsolicited, he doesn't have any relationship with them
13 whatsoever --

14 A. He didn't reach out to anybody, is not even
10:41AM 15 looking for speakers? No, I have absolutely no issue
16 with -- if -- if he -- he did not initiate any sort of
17 conversation and some random guy called him to sell
18 speakers, I have no issue with him enforcing TCPA.

19 Q. And after --

10:41AM 20 MR. NEVAREZ: Same -- same objection.

21 Q. (BY MR. MILTENBERGER) Okay. After the first
22 call he says, Send me an e-mail so he can try to find
23 out who's calling him, and after he gets that e-mail, he
24 said, Don't call me anymore, and they continue to call
10:42AM 25 him, do you have any problem with him enforcing the TCPA

1 in that instance?

2 A. If --

3 MR. NEVAREZ: Sa- -- same objection.

4 Q. (BY MR. MILTENBERGER) Okay. You can answer.

10:42AM 5 MR. NEVAREZ: It's irrelevant, immaterial.

6 Calls for speculation on -- on matters that are not

7 pertinent herein.

8 Q. (BY MR. MILTENBERGER) The objection's for the
9 record, so you can answer.

10:42AM 10 A. I feel like we're talking about hypothetical,
11 but we're using words that's very close to this
12 scenario. So I -- I need to clarify: We're not talking
13 about what transpired between here? We're -- you're --
14 you're talking about if this random speaker guy --

10:42AM 15 Q. Correct. Yes, I understand that.

16 A. So -- so, if a random speaker guy was told -- I
17 believe that Mr. Callier, if he didn't want this random
18 speaker guy to continue to call him, he needs to say,
19 Mr. Random Speaker Guy, thank you for your time; I am no
10:43AM 20 longer interested in the conversation. And I have no
21 problems with that.

22 Q. Now, the process for completing an
23 application -- you take information over the phone,
24 correct?

10:43AM 25 A. No. The client completes the information,

1 because we need to have his signature.

2 Q. So you take some information, then you send
3 them a written document that they have to fill out?

4 A. So, in order for me to pick up the phone and
10:43AM 5 even call you initially, you have to give that
6 qualifying information which we talked about earlier,
7 right? Like monthly revenue, how many years have you
8 done in business, what's your average credit score. I
9 need all of that information before I ever even decide
10:44AM 10 that it's worth my time reaching out.

11 Once I have that information, then we call
12 to see what you're looking for. We see how can we help.
13 And, if it still feels like a good fit, we e-mail you
14 over a link to a contract.

10:44AM 15 Q. And then complete the contract online and send
16 it back, or do they just sign it?

17 A. So -- and this is one of the reasons why we
18 used the -- the e-mail address for JaScott. So what
19 happens is, once you complete the -- once you complete
10:44AM 20 the application -- again, it's a link -- then once you
21 hit "approved" or "submit," or whatever that word is, it
22 gets submit- -- sent directly to JaScott.

23 So, once the -- and the client is the only
24 one who can really do that. So you have to enter in
10:45AM 25 your e-mail address, your phone number, the telephone

1 number that you want us to call you, all of that
2 information -- your company information, tax ID
3 information, you enter all that in. As soon as you hit
4 "submit," it's -- the contract is forwarded right to --
10:45AM 5 to our support team.

6 Q. And then the contract gets sent back to be
7 signed?

8 A. No, you -- you electronically sign it all at
9 the same time.

10:45AM 10 Q. Okay. So you -- do you ever walk them through
11 that process on the phone itself, while you're on the
12 phone, saying, Here, here's the document, pull it up,
13 let me tell you what -- what to complete?

14 A. Yeah. I mean, if you -- I mean, it's -- it's
10:45AM 15 pretty self-explanatory. But yeah, if you had any
16 questions, absolutely we would walk you through it.

17 Q. So you could actually sign the contract -- the
18 client could sign the contract while they're on the
19 phone with you or your representative explaining the
10:46AM 20 contract to them, right?

21 A. Correct.

22 Q. So, in an ideal world, it might happen where
23 somebody needs a loan, you get them on the phone, they
24 say, Yeah, I'm interested; I need it today, Man; send me
10:46AM 25 something right away. You'll send them a contract, walk

1 them through it, and they could sign it right there on
2 the phone when you're talking; is that right?

3 A. Yes, they could.

4 Q. And then that loan, it has the funder's name on
10:46AM 5 it? The actual contract has the funder's name on it,
6 right?

7 A. So JaScott has the -- yes, yes, it has
8 JaScott's name on it. So JaScott has the ability to
9 fund business loans, real estate loans, as well. So,
10:47AM 10 once you fill out that application, it has that on
11 there, and then, in writing, it talks about all of
12 our -- this -- this goes into conjunction with all of
13 the people that we work with as well.

14 Q. So sometimes JaScott may be the lender and
10:47AM 15 other times somebody like Pac Western may be the lender;
16 is that right?

17 A. Yes. Yes. A lot of what we do is -- yes.

18 Q. So what's the total amount of money JaScott has
19 out in loans at any given time? Like today, for
10:47AM 20 example.

21 A. We could -- we -- we primarily deal in real
22 estate loans. That's the primary bulk of what we loan
23 out. So it's -- that would be a lot higher dollar
24 amount than what it'd be if we did like a business loan.
10:48AM 25 So we -- we primarily deal in real estate, and --

1 Q. So what's the amount?

2 A. We could -- I don't -- I would have to look to
3 confirm. Is that -- can you tell me why that's a
4 relevant question?

10:48AM 5 Q. Yeah. For relevant size of your company, who
6 you are. I'm just trying to get some background. I
7 mean, do you have a hundred million out in loans, a
8 billion?

9 A. No. We deal -- we deal more in the six-
10:48AM 10 figures-and-less range.

11 Q. Okay. So how many total loans do you have out?
12 I'm trying to get a total amount: We've got a hundred
13 bill- -- I mean, a hundred million under loan right now.

14 A. No, no, no. We -- we are -- we probably have
10:49AM 15 not that much out right now. We have other things that
16 we're working through right now. So we -- we have less
17 than a hundred grand.

18 Q. A hundred grand or a hundred million?

19 A. A hundred grand.

10:49AM 20 Q. So you've got less than a hundred grand in
21 loans out right now?

22 A. Yeah.

23 Q. And that's in real estate loans?

24 A. Yes. Yes.

10:49AM 25 Q. How many loans does that consist of?

1 A. Two.

2 Q. And how many business loans, like you were
3 trying to make with Mr. Callier -- how many loans of
4 that do you have outstanding?

10:49AM 5 A. I don't have any -- any loans -- any business
6 loans outstanding.

7 Q. And how many loans, per year, do you get a
8 commission or referral fee off of?

9 A. It's -- it's tough to say. We're not really --
10 we're not -- that piece of our business, we're not
11 really actively marketing at this point in time.

12 Waiting for, you know, this kind of understanding --
13 I've never been in a situation before where I was
14 submitted fake bank statements and -- so we're really
10:50AM 15 kind of retooling that -- this piece of our business.

16 So we're not actively pursuing a lot of
17 business loans with people we don't already have
18 relationships with right now. So we -- we don't have a
19 lot out there at this point in time.

10:50AM 20 Q. Let's go back to 2023. Just round numbers, how
21 much revenue did your company make?

22 A. I would probably say, close to 150-, 200-.

23 Q. 150- to 200,000?

24 A. I don't know. I would have to look. I -- I
10:51AM 25 don't know. We -- my company's involved in a lot of

1 different things. A lot of these businesses outsource
2 parts of their operations to us. So they may outsource
3 bookkeeping. They may outsource marketing.

4 The lending piece of our business is --

10:51AM 5 it's something that we are -- we're looking to -- we're
6 looking to expand upon, because we already have this
7 business relationship out there that -- where we're
8 getting all these other services. So people ask us for
9 money because we are doing other things for them. So I

10:51AM 10 really don't know.

11 Q. Let me -- let me rephrase it this way: I'm
12 trying to determine, when I talk to the jury, whether
13 you're a company like Bank of America or you're a
14 company like little Joe Blow down here at the bottom of
10:52AM 15 the pond. So I'm just trying to get an idea of the size
16 of your revenue for your business, JaScott Investments.

17 A. Yes. I am nowhere near Bank of America.

18 Q. I understand that. I'm not either.

19 So you'd say you're in the 150- to \$200,000
10:52AM 20 revenue range.

21 A. Right around there, yeah.

22 Q. Okay.

23 MR. MILTENBERGER: That's all the questions
24 I've got. I appreciate you, Mr. Scott.

10:52AM 25 THE WITNESS: Thank you.

1 MR. NEVAREZ: Great.

2 EXAMINATION

3 BY MR. NEVAREZ:

10:52AM 4 Q. Let me -- Mr. Scott, I've got a few questions
5 with you. I want to clarify a few things. I -- I heard
6 a lot of -- lot of views in this deposition, a lot of
7 "evers," in the questions, I didn't want to keep
8 objecting, so let me clarify it.

9 Did you personally ever call Mr. Callier?

10:53AM 10 A. No.

11 Q. So did any employee of Invest- -- JaScott
12 Investments, LLC, ever call Mr. Callier?

13 A. No.

10:53AM 14 Q. Did anybody employed or owning JaScott
15 Investments ever personally deal directly with
16 Mr. Callier?

17 A. No.

10:53AM 18 Q. So would it be correct to say that, once you
19 sent the lead to Sygnius, you -- you didn't ever get
20 involved personally with Mr. Callier?

21 MR. MILTENBERGER: Objection, leading,
22 form.

10:54AM 23 Q. (BY MR. NEVAREZ) Did you ever -- after --
24 after you sent the lead to Sygnius, did you or
25 Investments -- JaScott Investments ever deal with

1 Mr. Callier, personally?

2 A. No.

3 Q. Did you ever take information from Mr. Callier?

4 A. No.

10:54AM 5 Q. Did you ever talk to Mr. Callier about the
6 contract?

7 A. No.

8 Q. Did you ever talk to Mr. Callier about the loan
9 application?

10:54AM 10 A. No.

11 Q. So all communications after you got the lead
12 from Sygnius was conducted by Syg- -- after you got the
13 lead from Max Williams, was conducted by Sygnius and
14 Fawzy?

10:55AM 15 A. Correct.

16 Q. Okay. Now, you used the term "chaser."
17 What -- please define "chaser."

18 A. So a "chaser" is what we refer to as -- as --
19 what JaScott Investments refers to as a "customer care
10:55AM 20 person." Their job is to get the -- the person that's
21 already interested in the loan. Their job is to simply
22 collect their documents. So they are the ones that
23 e-mails and they're the ones that's going to collect the
24 application and the bank statements to be sent to
10:55AM 25 underwriting.

1 Q. Okay. So -- so the chaser is a paper chaser?

2 A. Correct.

3 Q. Now, you also indicated that you purchased the
4 phone number for Sygnius. Could you go through that
10:55AM 5 process of how you did that?

6 A. Yes. Well, I -- it's not necessarily I
7 "purchased." I leased that phone number for 12 months.

8 Q. When you say "I," you mean you, personally?

9 A. JaScott Investments leased that phone number
10:56AM 10 for 12 months, so I went to a service call -- Aircall,
11 which is a VOIP. And I was forced to -- not necessarily
12 "forced," but -- I had to buy one phone number, but I
13 had to buy three seats. So I couldn't just buy -- and a
14 seat, from what they're called, is -- is called -- what
10:56AM 15 we refer to as a "user," right? There's three people
16 that can have access to make calls on that particular
17 phone.

18 So the service required that I buy three
19 seats, and it required that I buy it -- or lease it for
10:56AM 20 a year. And so, basically, I just went in there, put in
21 a username and password, and, you know, paid the money
22 for that one -year lease, and then I gave that
23 information to Sygnius so that they could, you know,
24 continue their role as -- as a customer care chaser, the
10:57AM 25 person that was going to collect the documents.

1 Q. Okay. And where did the money to -- to pay
2 that VOIP service come from?

3 A. JaScott Investments.

4 Q. Not -- not you, personally?

10:57AM 5 A. Not me, personally.

6 Q. And JaScott Investments has an account with
7 who?

8 A. Chase Bank.

9 Q. So it -- it was a Chase Bank account for
10:57AM 10 JaScott Investments that paid for the phone?

11 A. Correct.

12 Q. Okay. Define what "VOIP" is?

13 A. It's an internet-based phone where all you need
14 it an internet connection to access the phone. So you
10:57AM 15 can -- you can do it on your computer. And it's also an
16 app on your phone that you can download.

17 Q. Okay. So, when you say you purchased the
18 phone, you -- doesn't sound like you really purchased
19 the phone. You purchased the VOIP account?

10:58AM 20 A. Yes. There's ab- -- there's no phone -- I -- I
21 purchased -- I leased the ability to make calls with
22 Aircall for that year.

23 Q. And that's via computer or -- or a phone app?

24 A. Yeah.

10:58AM 25 Q. Okay. And -- and please spell the name of this

1 VOIP service that you got involved with.

2 A. Aircall, A-I-R C-A-L-L.

3 Q. Okay. Now, let's -- so let's go through the --
4 the website. Please explain that website, JaScott org?

10:59AM 5 A. Yes.

6 Q. No, no. I'm sorry. Before we get to that,
7 let -- let's -- let me ask you about something else:

8 You -- you indicated that -- I just want to make sure I
9 get the definition correct of the "cold call." What --

10:59AM 10 what exactly is in your -- your definition of a cold
11 call?

12 A. So, when I think of the word "cold call," I
13 randomly got someone's phone number, and I -- they --
14 they expressed absolutely no interest in my products
10:59AM 15 whatsoever, and I call them up to try to sell them on
16 something that -- that I have to offer while they've not
17 expressed any inkling of an interest for that particular
18 service or product.

19 Q. Okay. Now, you also mentioned "web leads."
11:00AM 20 Please define "web leads," give -- give some examples.

21 A. So, a lot of times, what happens is we market
22 on Facebook and Instagram and other social media
23 platforms, and we have -- we have ads that run under
24 those screens. And, when you're scrolling on Facebook
11:00AM 25 or you're scrolling on Instagram, you click on the ad

1 and that ad asks you -- when you click on the ad, you
2 enter in some information -- phone number, cell phone
3 number, name of your business -- and it asks you a
4 couple qualifying questions, and that gives us the --
11:00AM 5 the information we need to either e-mail you or call you
6 back and to get those web leads and see if we can be a
7 resource for you.

8 Q. Okay. All right. Now, let me -- let me refer
9 you to a document that Mr. Miltenberger asked you about.

11:01AM 10 So I'm -- I'm going to share my screen.

11 Okay. Do you see on the screen what's at
12 the top listed as Exhibit A, List of Proposed Exhibits?

13 A. Uh-huh, yes.

14 Q. Okay. Have you seen that page before?

11:02AM 15 A. Yes, I have.

16 Q. Okay. Now, you indicated that you worked with
17 my team to assemble some documents. Is this part of
18 what you worked with Denise Dominguez Rodriguez, my --
19 Macias, my paralegal?

11:02AM 20 A. Correct, correct. I -- I was asking to forward
21 her all the communications, so that we could chron- --
22 we could chronolize [sic] everything, and this is what
23 she helped us put together.

24 Q. Okay. Now, this is -- if you go to the -- do
11:02AM 25 you see up here it says -- we're on page 1, and there's

1 275 pages.

2 A. Uh-huh.

3 Q. Okay. So I'm going to just kind of walk you
4 through to make sure you -- you're familiar with this

11:03AM 5 page. Exhibit A consists of a spreadsheet? And you
6 worked -- did you work with my paralegal to compile this
7 spreadsheet?

8 A. Yes.

9 Q. Okay. And then who made the entries under the
11:03AM 10 Comments section?

11 A. The paralegal.

12 Q. Denise?

13 A. Denise, yes.

14 Q. Okay. And then -- so -- so that -- that -- and
11:03AM 15 that's off of an Excel spreadsheet; would that be
16 correct?

17 A. Correct.

18 Q. And so that list of proposed exhibits is five
19 pages long. Do you see that?

11:03AM 20 A. Uh-huh, yes.

21 Q. Okay. So the next page is Exhibit Number 1.
22 And you see that it's Bates stamped JaScott-001?

23 A. Uh-huh.

24 Q. That's a Bates stamp. Are you -- are you aware
11:04AM 25 of that?

1 A. No, no.

2 Q. It's called a "Bates stamp," because there was
3 a company way back when called "Bates" that invented an
4 automatic stamper. Every time he pushed on the stamp,
11:04AM 5 it -- it would roll to another number.

6 A. Got it.

7 Q. Okay?

8 So that -- so I'm going to refer to this as
9 "Bates 1," okay? So now on Bates 2, do you see that,
11:04AM 10 the entry?

11 A. Yes.

12 Q. Okay. You see, is that the -- is that the
13 spreadsheet that you were talking about, that you got
14 from Green Arrow?

11:04AM 15 A. Correct. Yes.

16 Q. Well, there's more to -- more to that
17 spreadsheet, right?

18 A. Yes.

19 Q. But is that the entry that initiated this
11:05AM 20 referral from Max Williams on the --

21 A. Yes.

22 Q. -- Callier business loan at issue herein?

23 A. Yes, this is -- that is correct.

24 Q. Okay. And that's time-stamped April 2nd, 2022?

11:05AM 25 A. Correct.

1 Q. And you say you never talked to Max Williams?

2 A. Correct.

3 Q. Did you ever have any e-mail communications
4 with Max Williams?

11:05AM 5 A. No. I -- I only had a relationship with the --
6 his -- his -- who he reported to.

7 Q. And that was?

8 A. Jack Dawson.

9 Q. Okay. And so the next column is Brandon
11:05AM 10 Callier. And I think you said you never had any
11 communication with Mr. Callier whatsoever?

12 A. Correct.

13 Q. Okay. Now -- and there's -- there's a Phone --
14 a column entitled Phone, and that's Mr. Callier's --
11:06AM 15 that's the phone number that was given to you by Max
16 Williams?

17 A. Correct.

18 Q. And that ends in 4604; is that correct?

19 A. That is correct.

11:06AM 20 Q. And it says, Company, Aero Services, LLC.
21 What -- what is that to -- what is that column supposed
22 to be?

23 A. That is the company -- so we -- we -- when the
24 lead came in, that's who we were supposed to -- so the
11:06AM 25 information looking for \$60,000 loan and all the other

1 information we got, that was supposed to be in regards
2 to Aero Services, LLC. So that -- that was who we were
3 actually calling. We were calling that company, was who
4 we were trying to call and e-mail.

11:06AM

5 Q. Okay. And then, the e-mail, that's Callier's
6 e-mail address that was given to you by Max Williams?

7 A. Correct.

8 Q. And the next column is Look- -- Looking Amount.

9 That's what Mr. Callier was looking for on behalf of

11:07AM

10 Aero Services, LLC?

11 A. Correct. Yeah.

12 Q. And -- and the Funding Purpose, what -- what
13 does that signify?

14 A. That's working capital. So you -- that just
11:07AM 15 tells us, kind of, what he needs the money for, to see
16 if it's going to be a good fit for -- for, you know, us
17 or -- or, you know, who -- it's just to see what type of
18 loan we think is going to be a good fit for -- that's
19 the purpose for that field.

11:07AM

20 Q. Okay. And, in this case, the "working capital"
21 signifies what kind of a loan?

22 A. So the "working capital," it could signify a
23 line of credit. It could signify a term loan. It could
24 signify an SBA loan. It could -- if you wanted to buy
11:07AM 25 equipment, it could signify equipment financing.

1 So those are really the -- the majority of
2 what we do, and so that's what we always lead with. But
3 if you have, you know, bank records, you have -- like, a
4 lot of -- a lot of small businesses don't have -- they
11:08AM 5 don't keep cash in their bank -- right? -- or they have
6 bankruptcies. So if you -- if you don't have cash in
7 your bank, a lot of times, we can't offer those types of
8 loans, or if you haven't been in business that long, we
9 can't offer those types of loans. And so then we have
11:08AM 10 to go more -- you know, more revenue-share-type loans,
11 versus an actual true interest-rate-type loan.

12 Q. Okay. I guess the question is: Does "working
13 capital" signify to you that it's a business loan?

14 A. Yes, correct.

11:08AM 15 Q. As opposed to a personal loan for an individual
16 to buy personal items?

17 A. Correct. If -- if this would have been a
18 personal loan, it would have said "personal loan,"
19 because that's a completely different -- that's a
11:09AM 20 completely different vertical. It has nothing to do
21 with -- we couldn't even offer Aero Services a personal
22 loan, because it's -- it's a completely different
23 underwriting department.

24 Q. Okay. And this last column, Deposits, what
11:09AM 25 does that signify?

1 A. Deposits is how much revenue that he has told
2 us -- or he told Mark -- Max Williams that he has coming
3 through his bank account, on average, for the last three
4 to six months' --

11:09AM

5 Q. I see. Okay.

6 A. -- business revenue through his bank account.

7 Q. Okay. Now, going on to the next page is the
8 title page, Exhibit Number 2, so we'll skip that one.
9 The -- the page after that is a copy -- is a printout of
10 an audio file. Are you familiar with that file?

11:10AM

11 A. Yes. I'm pretty -- I haven't seen it in this
12 format, but yes, I -- I'm familiar with the audio files.

13 Q. It says here the date is April 8 of 2022?

14 A. Perfect, yes.

11:10AM

15 Q. What -- what is that audio file, to your
16 knowledge?

17 A. This is the -- the first communication -- this
18 was the first recorded communication that we have where
19 Mark is asking Mr. Callier if he's in- -- if he was
20 looking for a loan. And then he goes into detail about,
21 not only is he looking for a loan, what is he looking
22 for that loan for, and corroborates a lot of things that
23 we got on the spreadsheet initially from Green Arrow.

11:10AM

24 Q. Okay. And -- and that's Bates stamp number 4.

11:11AM

25 You see that at the bottom?

1 A. Uh-huh, yes.

2 Q. So the next page is Exhibit Number 3, Bates
3 stamp 5. After that is Bates stamp 6. Are you familiar
4 with that, Bates stamp --

11:11AM 5 A. I am.

6 Q. And what is that?

7 A. This is Mr. Callier giving us over bank
8 statements that we need to underwrite the case. So, if
9 you see up top, Mark must have copied and paste my
10 information into this website where the application is.
11 So you would've completed the application. And then,
12 after we complete the application, we actually need bank
13 statements to send to underwriting, so that we can
14 confirm your account -- well, we confirm -- we can send
11:12AM 15 you to underwriting so we can see what kind of loans
16 that you would qualify for.

17 Q. And what are those -- those four items in the
18 bo- -- bank -- are those the bank statements?

19 A. Those are bank statements, yes.

11:12AM 20 Q. And -- and those are bank statements from who?

21 A. Those -- well, so, at the time, we thought that
22 they were bank statements from Aero Services, because
23 that's who we initially -- you know, we were -- we were
24 calling on behalf of. But, at some point, the
11:12AM 25 application -- even though we were calling on Aero

1 Services, somehow the application that was signed was
2 for a company called "Gonna Keep Truckin." And then
3 these bank statements were for that company, Gonna Keep
4 Truckin.

11:12AM 5 Q. And so you -- you were forwarding them to
6 Mr. -- where did you get the bank statements?

7 A. He -- Mr. Callier, for -- cop- -- got these
8 bank statements from -- at the time, I thought from his
9 bank. And he sent us these bank statements. And it
10 appeared that Gonna Keep Truckin was his company, these
11 were his bank statements, and this is what we needed in
12 order to underwrite him and -- and, you know, see if we
13 could offer him a loan.

14 Q. Okay. And -- and now, that -- that -- it says
11:13AM 15 from Brandon Callier to Mark Fawzy at the top, and then
16 it's got the mark.fawzy@jascott.org. Is that the e-mail
17 that -- address that you provided Mr. Fawzy?

18 A. Correct, yes.

19 Q. Okay. And -- and please explain how you got
11:13AM 20 that e-mail address --

21 A. The Mark Fawzy?

22 Q. -- to provide to Mr. Fawzy.

23 A. Ask me one more time. I'm sorry.

24 Q. Okay. Well, let's begin with JaScott.org.
11:14AM 25 What is JaScott.org?

1 A. That is a website designed for JaScott
2 Investments, and it's primarily a website that focuses
3 on our ability to lend money to real estate investors,
4 small businesses, and -- and we also do our mortgage --
11:14AM 5 we're also a -- JaScott Investments also has mortgage --
6 has a mortgage license. And that revenue is run
7 through -- through JaScott Investments as a whole as
8 well.

9 So that website encompasses strictly -- for
11:15AM 10 the most part, loans for those three verticals.

11 Q. Okay. And how did you get that website,
12 JaScott.org?

13 A. So, initially, that website was -- was a
14 JaScott Enterprise website, back in 2014. And right
11:15AM 15 around the time of -- of 2018 -- so the -- the initial
16 website was designed to get -- we wanted to -- so
17 Enterprise wanted to attract investors to grow its real
18 estate portfolio, as well as sell units to -- to
19 customers, consumers. By the time 2018 rolled around,
11:15AM 20 Enterprise decided that it did not like working with
21 investors, and that it didn't want to be -- it didn't
22 want to be client-facing anymore. So they wanted to get
23 rid of all marketing.

24 So I then purchased the assets, which was
11:16AM 25 this -- this JaScott.org e-mail address, from

1 Enterprise, when I -- when I created JaScott
2 Investments, and then I redid the website, took it away
3 from the vendor that JaScott Enterprises was doing. I
4 restructured and redid the website as a JaScott
11:16AM 5 Investments website. And so that's how we turned this
6 website into a JaScott Investments website.

7 Q. Okay. Well, you say "I purchased."

8 A. JaScott Investments purchased -- sorry.

9 Q. Go ahead.

11:16AM 10 A. JaScott Investments purchased -- well, JaScott
11 Investments took over the domain name of JaScott.org
12 when JaScott Enterprises decided that it did not want to
13 be client-facing any -- any longer.

14 Q. Did that involve the payment of money by
11:17AM 15 JaScott Investments?

16 A. The money that was paid was for -- to redo the
17 website. And then, when the contract ended for JaScott
18 Enterprises, JaScott Investments took over the contract.

19 Q. And how did it -- how did it take over the
11:17AM 20 contract?

21 A. We just re- -- when we renewed it, we renewed
22 it under JaScott Investments.

23 Q. And when you renewed it under JaScott
24 Investments, did you have to pay money?

11:17AM 25 A. Yes.

1 Q. And where did that money come from?

2 A. From -- from the credit card of JaScott
3 Investments.

4 Q. And that was a Chase credit card?

11:17AM 5 A. Yes.

6 Q. Chase Bank?

7 A. Yes.

8 And so I -- we -- we used our -- still a
9 JaScott Investments account, but we used our PayPal

11:18AM 10 account to pay for redesigning the -- the website. So
11 we used the Chase, the -- the Chase JaScott Investments
12 credit card and we also used the JaScott Investments
13 PayPal account to -- to fund the redoing of the website.

14 Q. Okay. Well, once that occurred, once you took
11:18AM 15 over, did -- did JaScott Invest- -- Enterprises have any
16 other involvement with the -- the website JaScott.org?

17 A. No.

18 Q. Did they have any involvement in the payment of
19 the website of JaScott.org?

11:18AM 20 A. No.

21 Q. Did Enterprises have any involvement in the
22 development of the Investments website?

23 A. No.

24 Q. Okay. And who developed the -- the -- the
11:19AM 25 content on the JaScott Investments website?

1 A. Digital Korbax developed the content, and I
2 kind of -- and me, Mitchell Scott, kind of oversaw the
3 process or -- or approved those changes.

4 Q. Okay. All right. So let me refer you back to
11:19AM 5 Exhibit A. And we were on page -- Bates stamp 6. And
6 in there -- here -- here's the Bates stamp page 7. And
7 is that the bank statements you got from Mr. Callier,
8 that you forwarded on to Mr. Fawzy, from Gonna Keep On
9 Truckin, LLC?

11:20AM 10 A. So he sent these bank statements -- Mr. Callier
11 sent these bank statements directly to Fawzy, and then
12 Fawzy forwarded to -- to me --

13 Q. I see.

14 A. -- or to Ja- -- yeah.

11:20AM 15 Q. Okay. And so that continues on. And you've
16 reviewed all these documents that are -- are in this
17 Exhibit A; is that correct?

18 A. Did I -- did I personally review the bank
19 statements? Is that what --

11:20AM 20 Q. No. Have you reviewed all these pages that are
21 on Exhibit 275 [sic]?

22 A. I -- I haven't seen this document in this --
23 this fashion, but I -- I believe I -- I gave -- I
24 would've given Denise, the paralegal, this information.
11:20AM 25 So I'm sure I have. I just haven't seen it all in one

1 file before. But yes, all of this stuff, I -- I did --
2 I did review and did send over.

3 Q. To Denise, my paralegal?

4 A. To Denise, yes.

11:21AM 5 Q. Okay. And -- and so, now, taking you to
6 Exhibit Number 4, which is Bates page number 9 -- 39.
7 And -- and there's the e-mail dated -- on -- on Bates
8 stamp 40 -- you see that?

9 A. Yes.

11:21AM 10 Q. And that's an e-mail from Mark Fawzy to
11 Mitchell Scott -- you? -- da- -- Upwise Capital is
12 copied on this, dated April 8, 2012. You see that?

13 A. Yes.

14 Q. Okay. And so how is it that you got this
11:21AM 15 e-mail? You were copied?

16 A. I was copied, yes.

17 Q. And -- and so you have an e-mail client that
18 gets all these e-mails?

19 A. Yes. We use Zoho as our e-mail server, and so
11:22AM 20 yes, we -- oh, are you -- sorry -- are you asking me,
21 how did I -- how did I obtain all of these e-mails?

22 Q. Yes. You provided this e-mail to my paralegal
23 Denise?

24 A. Uh-huh.

11:22AM 25 Q. How -- explain that process.

1 A. So I still had access to the Mark -- the -- the
2 Zoho e-mail account for Mark Fawzy, because it was on a
3 yearly-contract basis as well. And so, when -- when I
4 was asked to provide all the documents to all the
11:23AM 5 communications, I went in -- because I'm a super user,
6 because I own the company, I went under Mark Fawzy's
7 account, and I forwarded out all of these e-mails from
8 Mark Fawzy's account to Denise and myself.

9 Q. I see. Okay. And is that true for all e-mails
11:23AM 10 in this Exhibit A?

11 A. Correct. Yes, I did the same thing.

12 Q. Okay.

13 A. Yeah, that's why they all say "Forward" on
14 them.

11:23AM 15 Q. Right. Okay. Now, let me refer you to Bates
16 stamp 54 of this Exhibit A. You see that? That's the
17 loan application?

18 A. Uh-huh.

19 Q. Did you receive a copy of this?

11:24AM 20 A. It -- it gets downloaded -- as soon as you hit
21 "Submit," it gets downloaded directly to my DocuSign
22 account. And yes, I -- I do have -- do get a copy of it
23 there.

24 Q. I'm sorry. Repeat that?

11:24AM 25 A. So, when you sign it, it goes directly into my

1 DocuSign account. And it's housed there, and then we
2 grab it and we send it -- we do whatever we need to do
3 with it in order to find the best solution for our --
4 our clients and prospects.

11:24AM 5 Q. Okay. Well, when you received this, did you
6 look at it?

7 A. Yes.

8 Q. Okay. And so this suggests that this is that
9 \$60,000 amount -- that's the requested financing -- and
11:24AM 10 use of the funds was supposed to be more trucks,
11 according to this?

12 A. Uh-huh.

13 Q. And -- and the legal company name, or DBA, is
14 "Gonna Keep On Truckin, LLC"?

11:25AM 15 A. Yes. So that's --

16 Q. Go ahead.

17 A. So this is the part that threw us off, because,
18 again, we were calling on behalf -- to Aero Services.

19 And you can probably see our confusion in the -- in the
11:25AM 20 communication log, where we didn't know how this ended
21 up being Aero's -- we went from Aero Services to Gonna
22 Keep On Truckin. So -- but yes, everything else appears
23 to be the same, except for they changed the name on the
24 account.

11:25AM 25 Q. So you were under the impression that this was

1 going to be a business loan for Gonna Keep On Truckin,
2 LLC?

3 A. Yes.

4 Q. Okay. Now, the owner -- did -- the next
11:25AM 5 section below Business Owner Information, you see there
6 it says "Brandon Callier"?

7 A. Yes.

8 Q. And then, apparently, his percent ownership
9 interest a hundred percent?

11:26AM 10 A. Correct.

11 Q. Well, I'll represent to you that Mr. Callier
12 testified he -- he -- that's not true. He doesn't have
13 a hundred percent ownership, and, in fact, he doesn't
14 have any ownership interest in Brandon Callier -- in --
11:26AM 15 in Gonna Keep On Truckin.

16 A. Okay.

17 Q. Now, did -- did he ever tell you that -- or --
18 or, to your knowledge, did he ever tell Mr. Fawzy or
19 JaScott Investments or yourself that Gonna Keep On
11:26AM 20 Truckin was never actually interested in a personal
21 loan?

22 A. Or a business loan? No, he -- this entire
23 time -- the whole underwriting process is based on
24 the -- the company information that was provided in the
11:27AM 25 bank -- the bank records. And then they're -- and then

1 it's based on the -- the personal habits of the owner.
2 So, if we would have known that Brandon Callier was not
3 the owner, it would have been an automatic decline,
4 because we -- we -- we need the owner's credit score
11:27AM 5 and -- and personal financial health in order to decide
6 if we could even do this loan.

7 So no, that -- if that information would
8 have been given, it would have been a direct, like,
9 decline.

11:27AM 10 Q. Okay. Well, my -- my question, actually, is:
11 Did Mr. Callier ever tell you that he never actually
12 even wanted to close this loan -- business loan?

13 A. No. It was the exact opposite.

14 Q. What -- explain that.

11:27AM 15 A. He told Mark -- and, again, we have the
16 audio -- to where when Mark said he got approved for the
17 loan, he said, I'm at the lake; I'll be signing all the
18 documents when I get back -- oh, I -- I'm going to
19 accept the loan, and I'll give you all the information
11:28AM 20 you needed to -- to process it when I get back from the
21 lake.

22 And, in addition to that, when -- when he
23 read the contract, in there, there was a communication
24 that Mr. Callier actually provided in his -- in his
11:28AM 25 initial ser- -- when he served us -- when he served not

1 JaScott Investments, but when he served JaScott
2 Enterprises initially, where in there it says, I agree
3 to accept the terms of this loan; the only thing I don't
4 like is the fact that you're looking into my bank
11:28AM 5 account; I don't like for people to look in my bank
6 account for an extended amount of time.

7 But the -- the first sentence of this
8 communication in the DocuSign is: I've read the terms
9 and I agree to accept.

11:29AM 10 Q. Okay. Well, what would have happened if -- if,
11 in- -- Mr. Callier, instead of filing this loan
12 application with you and Fawzy, would have told you, I'm
13 not interested in any business loan? Would that have
14 caused you to stop contacting Mr. Callier?

11:29AM 15 A. Yes, we would've immediately stopped.

16 Q. And why is that?

17 A. Because we're in the business of helping
18 businesses get loans. And, if we're not a good fit or
19 if you don't have -- if -- if you weren't interested in
11:29AM 20 a loan, there would be no reason for us to call you,
21 because, again, at the time, we were getting like 30 --
22 we were getting 30 to 60 leads a month -- oh, no, I
23 actually think we were getting them a week. We were
24 getting that many leads a week. And there would be no
11:30AM 25 point in wasting another second when we had that much

1 activity coming through our pipeline.

2 Q. Well, did -- did Mr. Callier ever tell you or
3 Sygnius or Mr. Fawzy that he did not really want the
4 business loan that he's applying for?

11:30AM 5 A. No. Quite the opposite. And even all the way
6 up until, you know, late August -- or not "August," but
7 April, when Mark went to the hospital -- the very last
8 phone call that was recorded during that time period,
9 with -- with Mr. Callier and -- and Fawzy, Fawzy asked

11:30AM 10 him, Were you -- have you had an opportunity to review
11 our -- our offer? And he says, No, not yet; give me 10
12 minutes, and I'll call you right back.

13 So, from our perspective, he was interested
14 in day one and he was interested in this loan up until
11:31AM 15 the point where Mark Fawzy went to the hospital in
16 April -- end of April.

17 Q. Interested in continuing communications
18 regarding the business loan?

19 A. Correct. Correct.

11:31AM 20 THE REPORTER: Mr. Nevarez, between
21 documents at some point, can we please have a break?
22 It's been two hours on the record.

23 MR. NEVAREZ: Sure, we can break right now
24 if you want.

11:31AM 25 (Break taken from 11:31 a.m. to 11:39 a.m.)

1 Q. (BY MR. NEVAREZ) Mr. Scott, you indicated --
2 you indicated that -- well, you were being asked about
3 the standard operating procedure document?

4 A. Yes.

11:39AM

5 Q. No, I guess it was referred to as a "Do Not
6 Call procedures." Now, did -- was that document ever
7 given to Sygnius?

11:40AM

8 A. The document was made available to Sygnius.
9 And the reason why I -- I can't confirm -- like, it's --
10 it's -- it's given to all of our -- the people that work
11 for us in that capacity, in that customer care role,
12 right? Sygnius is a little bit different in the sense
13 that we -- we definitely covered all that information.
14 But what happened was Sygnius approached me about

11:40AM

15 wanting to do co- -- they wanted to cold-call on my
16 behalf. And, in order for them to cold-call on my
17 behalf, I had to pay them \$3,200 a month.

11:41AM

18 So we definitely talked about the process
19 and all this other stuff. But the fact that I said "no"
20 to the \$3,200 a month -- what I don't recall is that if
21 that was the end of, Well, you're not cold-calling for
22 me, or if we specifically went through that document and
23 said, No, I'm not paying you \$3,200 a month to cold
24 call; Oh, by the way, we don't cold call.

11:41AM

25 So that's why I can't say for sure they got

1 it. But it was definitely made available into the
2 Google Drive that we all shared.

3 Q. Okay. What -- what was your -- what was
4 Investments' policy regarding cold-calling by Sygnius?

11:41AM 5 Did you permit that or did you -- no, you weren't -- you
6 weren't going to do -- to have them do the cold-calling
7 because you didn't want to pay the 3,200?

8 A. Ex- -- exac- -- we -- JaScott Investments
9 thinks cold-calling is -- is a waste of time. There's
11:42AM 10 just -- we don't have the resources to randomly call
11 people who have never expressed interest in our product
12 to see if we can catch somebody at the right place at
13 the right time. So it's -- it's always been an absolute
14 waste of time for us in any vertical that we have, and
11:42AM 15 so we just didn't do it. And it's definitely not worth
16 paying \$3,200 to see if somebody else can, you know,
17 happen to catch somebody at the right time, who's never
18 expressed interest. So it was -- it's been perfectly
19 clear throughout the entire company that we don't do
11:42AM 20 that.

21 Q. It was perfectly clear during the entire
22 company?

23 A. Yeah, nobody -- no one in our company that's
24 worked for me as a contractor has cold-called anyone.
11:42AM 25 That's -- that's forbidden from what we do. And it's --

1 it's a waste of time for -- for -- from our perspective,
2 which is JaScott Investments' perspective.

3 Q. Okay.

4 A. So you are -- and -- and to -- to further that
11:43AM 5 a little bit more, not only do we not cold-call random
6 people, but, if you look at that document, we don't
7 cold-call people who don't answer all of our questions,
8 because that's a waste of time too. Because a lot of
9 times what happens is -- let's say people made -- say, I
11:43AM 10 want the \$60,000 loan, they don't answer the rest of the
11 questions because they really don't qualify and they
12 want you -- they want you to tell them their story,
13 right? They want to listen to you so you can have
14 empathy for their certain scenario.

11:43AM 15 And, for us, if you don't -- if you don't
16 have the minimum requirements, we don't even call you
17 back there. And so that's what we -- that's what
18 that -- that document actually illustrates, is that, you
19 know, not only are we not cold-calling, we're not cold-
11:43AM 20 calling you if you don't give us -- if you don't answer
21 all our questions either.

22 Q. I see. Okay. Well, let me now refer you to
23 Exhibit B on the screen. Can you see Exhibit B on the
24 screen?

11:44AM 25 A. Yes.

1 Q. That's a five-page document. You see it says
2 "Exhibit B" up at the top, JaScott website screenshot?

3 A. Yes.

4 Q. Are you familiar with that?

11:44AM

5 A. Yes.

6 Q. What is that page 1 of Exhibit B?

7 A. So this is the -- the home page of the
8 JaScott.org web page. So this is -- this is the -- the
9 website as it looks today and then. And it talks about
10 the -- our process for qualifying for a loan.

11:44AM

11 Q. So is this the JaScott Enterprises website or
12 the JaScott Investments website?

13 A. This is the JaScott Investments website.

14 Q. And that's the one that you -- that JaScott
15 Investments completely took over from JaScott
16 Enterprises?

11:45AM

17 A. Correct.

18 Q. Okay. Now, what happens if on -- on this
19 Exhibit B, page 1, if you click on the "Apply Now"?

11:45AM

20 A. It takes you to a survey form, and that survey
21 form asks you those same exact questions that were
22 provided by -- that we got in that spreadsheet. So
23 this -- this survey form completes that -- when you --
24 when you enter in your information here, your revenue,
25 your -- how long you've been in business, what you want

11:45AM

1 the money for, it's going to ask you those questions,
2 and then that populates the spreadsheet that we showed
3 earlier, or one of the spreadsheets that's very similar
4 that we showed earlier.

11:46AM 5 Q. Okay. Now, does this also apply towards
6 business loans?

7 A. This is all business loans.

8 Q. No consumer loans?

9 A. No consumer loans. The -- the only consumer
11:46AM 10 loan we offer -- let's say if you're a business, and
11 let -- let's say if you're in real estate -- you're in
12 real estate. And, in real estate, you've got to have
13 some cash to -- to do the deal. And let's say -- you
14 know, let's say you -- you want a hundred thousand
11:46AM 15 dollar loan. In order to qualify for a real estate
16 investment, you've got to -- you've got to have
17 20 percent equity into that house, right? And let's say
18 you don't have equity into the house -- you don't have
19 enough equity into the house, but it's still a very good
11:46AM 20 deal and you think you have a very good exit strategy.
21 The only personal loans that we really offer are the
22 ones where we give you either, A, a business loan or we
23 give you a real estate loan, but we can't give you all
24 the money, so we can wrap it around with a personal
11:47AM 25 loan.

1 But we really don't do any personal loans
2 just ran- -- like -- that -- that aren't stacked on top
3 of a -- a business loan that you have with -- with a
4 very good exit strategy.

11:47AM 5 Q. So the answer was "no," you don't do personal
6 loans?

7 A. Not -- not on -- not on their own, correct.

8 Q. Okay. Going to page 2, these are
9 testimonials --

11:47AM 10 A. Yes.

11 Q. -- from the JaScott Investments web page?

12 A. Yes.

13 Q. Page 3, that's -- what's that?

14 A. This is the header. So this is -- this is all
11:47AM 15 the home page. And this is at the top of the home page.
16 So this is -- talks about, you know, that the
17 JaScott.org is into the lending business.

18 Q. Okay. Page 4 of Exhibit B, what is that?

19 A. This is -- just gives you a quick rundown of
11:48AM 20 the business loans that we do offer and the industries
21 that we service.

22 Q. I see. And page 5?

23 A. This is just frequently asked questions. In
24 addition to business loans -- again, we're in the real
11:48AM 25 estate, so we had a relationship with a company called

1 Trio that we were providing lease-to-own home financing.
2 So, over to your right, it's just some Q and A over that
3 particular product. And then, to your left, that is the
4 business loan.

11:48AM 5 And this -- this is really -- these are
6 really the two products that we have in addition to
7 investor real estate loans that we offer at JaScott.org.

8 Q. Okay.

9 MR. NEVAREZ: Well, I have no further
11:49AM 10 questions. I'll pass the witness.

11 FURTHER EXAMINATION

12 BY MR. MILTENBERGER:

13 Q. Let me share my screen. Can you see my shared
14 screen, which appears to be that website?

11:49AM 15 A. Correct.

16 Q. Lease-to-Own Home Finance, those are consumers,
17 right?

18 A. No. Actually, no. Those are -- so how this
19 works is we offer -- we have -- we have -- let's say
11:49AM 20 if -- I'm sorry, tell me your last name one more time,
21 Chris.

22 Q. Miltenberger.

23 But it says Lease-to-Own Home Finance, so
24 those are dealing with consumers' homes, right?

11:50AM 25 A. No. So let me -- please give me an opportunity

1 to explain. So, Mr. Miltenberger, let's say you don't
2 have enough money to offer -- let's say you don't have
3 enough money to -- or you don't qualify for getting a
4 loan on your own, right? So what we do is, we have the
11:50AM 5 house, and then what we can do is we actually have -- we
6 don't sell the house to the individual. We sell it to
7 this company called Trio.

8 So -- so our deal is with Trio. Trio
9 leases the house back to you, gives you the ability to
11:50AM 10 increase -- to have equity into the house, and then they
11 sell it to you at somewhere down the road.

12 Q. And I get that. But what you're marketing is
13 to consumers that need a house to live in, right?
14 That's -- that's the customer? You find somebody who's
11:51AM 15 a consumer that needs a house to live in, and he goes
16 through you to get Trio to buy it, and then that
17 consumer leases it from Trio, right?

18 A. My rel- -- my deal is with Trio. So the
19 client --

11:51AM 20 Q. Your deal is. But -- but the target audience
21 for this frequently asked question, that's a consumer
22 who needs to live in a house, correct?

23 A. Correct.

24 Q. Okay. Now, let me ask you this: When I apply,
11:51AM 25 do I get a TCPA message that says, We have -- that you

1 agree we can call you even if you are on the "Do Not
2 Call" list?

3 A. No. We say, Thank you for your information and
4 we'll be reaching out to you if you -- if you qualify
11:52AM 5 for our -- our product.

6 Q. So you don't have a TCPA disclaimer on your
7 website, do you?

8 A. No.

9 Q. So any of the leads that come through this
11:52AM 10 website, none of those have that TCPA disclaimer, do
11 they?

12 A. They're not cold calls. You reached out to --

13 Q. Okay. No, I'm just asking: None of the leads
14 that come through this website that I'm sharing with
11:52AM 15 you -- none of those have the TCPA claim- -- disclaimer,
16 do they?

17 A. I -- I don't even know. I don't know what that
18 is. So, if you reached out to me and you filled out
19 this form, you're authorizing me to give you a call
11:52AM 20 back, or you're -- you're collecting on that
21 information. So, in terms of what -- again, we don't
22 cold-call, so we're not as versed in TCP. But we have
23 the ability to respond to inquiries when you come
24 through our website.

11:53AM 25 Q. Okay. Max Williams, how did he transfer that

1 spreadsheet to you with the lead in it of Mr. Callier?

2 A. We have -- we -- it was -- it's on the
3 spreadsheet that we all have access to. So, when --
4 when -- it's a live worksheet -- a live worksheet, and
11:53AM 5 we have that information -- once he plugs in that
6 information on the spreadsheet, we all have access to
7 it.

8 Q. When you say "we all," is it a Google Docs that
9 you and everybody at Green Arrow have access to?

11:53AM 10 A. Yes. Yes. Everybody who -- yes. So --

11 Q. Who else -- who else has access to it, besides
12 people at Green Arrow and JaScott Investments?

13 A. And Sygnius Group had access to it.

14 Q. Okay. And so you didn't actually receive an
11:53AM 15 e-mail about that lead?

16 A. No, I did not.

17 Q. So Max Williams, what's he got to do -- I mean,
18 he's been designated as a witness. Why is he designated
19 as a witness?

11:54AM 20 A. He -- he was the one who handled the lead
21 coming from -- from Callier.

22 Q. So he's the one that spoke with Callier?

23 A. I can't speak to that, because a lot of leads
24 come in through the web and a lot of leads come in from
11:54AM 25 phone. So I don't know exactly how he got the lead.

1 But, if it was by phone, I would assume he was the one
2 that spoke to him, because he was the one who -- who the
3 lead was designated as -- as part of working the lead.

4 Q. Okay. Now, what happens if a loan goes bad?
11:54AM 5 So like this loan to Mr. Callier, let's say it gets
6 funded, and six months later it goes bad. Is JaScott
7 Investments on the hook for any of that bad loan?

8 A. Yeah.

9 Q. And how is that?

11:54AM 10 A. Any -- well, I don't know the exact timing of
11 it all. But if -- if it's within six months -- or if
12 it's within a year and the loan goes bad, we have to pay
13 back our -- whatever -- whatever money was paid to us,
14 it gets paid -- we have to give it back.

11:55AM 15 Q. So whatever you got in commission, you have to
16 pay back, if -- if that loan goes bad within some period
17 of time, right?

18 A. I believe -- I believe that's the way it works,
19 yes.

11:55AM 20 Q. So, basically, you make these loans and you
21 pass them on to someone else to take the risk on the
22 loan, right?

23 A. Sometimes, yes.

24 Q. So you really don't care if the loan is a good
11:55AM 25 loan or a bad loan? As long as it goes through and you

1 get paid, you're in good shape, aren't you?

2 A. No, that's not true at all. It's all about
3 relationships. So, at the end of the day, if you're
4 writing bad loans, you're going to lose your partners.

11:55AM 5 So you definitely don't want to get into the habit of --
6 of doing bad loans. Second of all, yes, we do have to
7 give the money back. And third, we have the ability to
8 syndicate.

9 So what we were working toward was the
11:56AM 10 ability to take a portion of that loan on all the loans
11 that we offer. So like, say, if we give you a \$25,000
12 loan, maybe we take -- we have someone else underwrite
13 it, but we can syndicate it, where we take 5 and the
14 other company takes 20. That's what we were all working
11:56AM 15 to- -- that's what JaScott Investments was working
16 toward. So definitely --

17 Q. Let -- tell me this: On -- on the loan to
18 Mr. Callier -- again, I think I asked you earlier and
19 you told me you weren't real sure. But, in general, how
11:56AM 20 much do you make on a loan like that? How much do you
21 get in revenue into your company on a loan like that?

22 A. I can make anywhere from 2 percent of the
23 loan -- I can make as -- as much as 12 and as little as
24 2.

11:57AM 25 Q. From 2 to 12 percent of the principal of the

1 loan, that's how much you can make?

2 A. Correct.

3 Q. And how many loans did you close last year?

4 A. 2023? We only did real estate loans. We -- we
11:57AM 5 didn't do any business loans last year.

6 Q. In 2022, how many business loans did you close?

7 A. I don't know.

8 Q. Give me an approximate.

9 A. I -- we -- I don't know. I -- I would -- I
11:57AM 10 would be guessing at the very least. So, if you're
11 looking for round numbers, less than 50.

12 Q. Less than 50? Less than 20?

13 MR. NEVAREZ: Let -- let me make sure I
14 file my objection. Tho- -- it calls for speculation.

11:57AM 15 Q. (BY MR. MILTENBERGER) I don't mean for you to
16 speculate. I mean, it's your business. You're talking
17 with the jury. I just want you to tell the jury how
18 many loans you think you closed.

19 A. We -- the -- how -- the -- the bulk of our
11:58AM 20 business -- so yeah, it was probably -- I -- honestly,
21 Mr. Miltenberger, I don't know. The revenue -- I don't
22 know. I don't know. I don't know that answer. Just
23 leave it at that.

24 Q. Okay. Is your cell phone number
11:58AM 25 (214) 206-9382?

1 A. No.

2 Q. What number is that that I just gave you?

3 A. That's the business loan number.

4 Q. Business number for who? For what?

11:58AM 5 A. Actually, let me look. We have the one -- the
6 887 number -- that appears to be the number for the call
7 directory. I'd have to look for -- that's -- that is a
8 personal number, but I don't know -- I don't really --
9 I'd have to look to see.

11:59AM 10 Q. Whose personal number is it?

11 A. Yeah, I -- I would have to look it up to see.
12 I haven't -- I haven't used that number or called that
13 particular number in a while.

14 Q. Can we call that number right now?

11:59AM 15 MR. NEVAREZ: That was a "yes" or "no"
16 question.

17 THE WITNESS: Oh. Oh. Oh.

18 A. I don't know. I don't -- I haven't called that
19 number. I don't know what that number -- what that
11:59AM 20 number is for.

21 Q. (BY MR. MILTENBERGER) Well, I understand that.
22 But this -- I'm trying to find out whose number that is.
23 Do I have your permission to call that number and see
24 who answers?

11:59AM 25 THE WITNESS: Michael, is that an issue?

1 Do we have an issue?

2 MR. NEVAREZ: I don't know. Can he look on
3 the "Do Not Call" registry first? Mr. Miltenberger,
4 please, please go to the "Do Not Call" registry.

12:00PM 5 MR. MILTENBERGER: Is it on the "Do Not
6 Call" registry?

7 MR. NEVAREZ: That's what I want you to
8 find out before you call.

9 MR. MILTENBERGER: Oh, I'm not going to --

12:00PM 10 MR. NEVAREZ: I don't want your client
11 suing somebody again.

12 MR. MILTENBERGER: No, my client's not
13 going to sue. I'm going to make it right here on the
14 deposition. I'm going to dial the number myself. You

12:00PM 15 can't sue if you dial a number. You sue for when
16 numbers are called to you. I've got my phone here, and
17 I just -- if it's your number, I don't want to be
18 improperly contacting you. But I want to see whose
19 number you list -- you know, what you list with that

12:00PM 20 number. (214) 206-9382.

21 ELECTRONIC VOICE: Hi. You've reached the
22 personal assistant for Mitch Scott. Please tell me your
23 name, and I'll try to connect you.

24 Q. (BY MR. MILTENBERGER) Okay. Did you just hear
12:01PM 25 that said I reached the personal assistant for Mitch

1 Scott? Did you hear that?

2 A. Yes.

3 Q. Okay. That's you, Mitch Scott, right?

4 A. Yes. So that -- that number is probably
12:01PM 5 connected to our IVR. So it's connected to the -- that
6 number rolls over to my cell phone number.

7 Q. To your cell phone number?

8 A. Yeah. So that is still a VOIP number -- that's
9 still a VOIP number and -- tied to JaScott Investments.
12:01PM 10 And yes, it -- well, it doesn't roll over to my cell
11 phone number. It rolls over to the app on my phone.
12 And that's -- that's how it comes directly to me.

13 Q. So that's the cell phone that you carry around
14 every day, right?

12:02PM 15 A. No, that -- that is not my cell phone number.
16 That is an -- his -- there's an app on my phone that has
17 my cell phone number on it -- I mean, it's -- I have my
18 cell phone, and it's a VOIP number that's an app on --
19 on my cell phone and on the web. So it's very similar
12:02PM 20 to the Aircall program that we talked about earlier.

21 Q. Okay. So, when I dial that number, that number
22 eventually goes to your cell phone, right?

23 A. Correct.

24 Q. Okay. Now, I just want to make sure: In my
12:02PM 25 questions earlier, your attorney was right, there were a

1 lot of questions about "you." When I was talking about
2 "you," we were talking about JaScott Investments,
3 correct? I think we said that at the start of the
4 deposition, right?

12:02PM

5 A. Yes.

6 Q. And so, all of Mr. Fawzy's calls, while you
7 didn't make them personally, JaScott Investments,
8 through Fawzy, made those calls, right?

12:03PM

9 A. Fawzy was under contract to go be a chaser for
10 JaScott Investments, that is correct.

11 Q. Okay. So those calls were made on behalf of
12 JaScott Investments, right?

13 A. Correct.

14 Q. Okay.

12:03PM

15 A. For -- for the --

16 MR. MILTENBERGER: I don't have -- I don't
17 have any further questions.

18 MR. NEVAREZ: Okay. I've got a little bit
19 of follow-up.

12:03PM

20 FURTHER EXAMINATION

21 BY MR. NEVAREZ:

22 Q. I want to share that screen of that website
23 that Mr. Miltenberger took you to. Do you see the
24 website on the -- on the screen?

12:04PM

25 A. Correct.

1 Q. Okay. Now, it says here, the Meet Our Team for
2 JaScott.org -- that's JaScott Investments?

3 A. Yes.

4 Q. Now, throughout this website, I -- I think the
12:04PM 5 only reference to JaScott Enterprises is under
6 Dr. Lynn -- would you pronounce that for me?

7 A. Mallaiah.

8 Q. Mallaiah, okay.

9 And why is JaScott -- the word "JaScott
12:04PM 10 Enterprises" on that page that under Mr. Mallaiah's
11 name?

12 A. When we took over the website for JaScott
13 Enterprises in 2018, 2019, somewhere around in that time
14 space, Dr. Mallaiah's profile was already there. And I
12:05PM 15 did not realize that that -- I didn't catch that one
16 word when we restructured the website and -- and turned
17 it into the JaScott Investments website. So that was --
18 either that was a typo or it was an oversight on my part
19 to leave that word in there.

12:05PM 20 But we're still not marketing JaScott
21 Enterprises. And he still, you know, was -- you know,
22 it's still true, but this website was making no
23 reference to that this was a JaScott Enterprises
24 website.

12:05PM 25 Q. Okay.

1 MR. NEVAREZ: All right. Well, I -- I have
2 no further questions. Does this conclude the
3 deposition?

4 MR. MILTENBERGER: Okay. Should we come
12:05PM 5 back at, say, 1 o'clock your time and resume the
6 deposition of Mr. Callier?

7 MR. NEVAREZ: Sure, that's fine.

8 (Deposition concluded at 12:06 p.m.)
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C E R T I F I C A T E

STATE OF TEXAS)

COUNTY OF EL PASO)

I, Melody C. Joiner, Certified Shorthand
Reporter in and for the State of Texas, hereby certify
that this transcript is a true record of the testimony
given in said proceedings, and that said transcription
is done to the best of my ability.

Given under my hand and seal of office on this
22nd day of January, 2024.



Melody C. Joiner, Texas CSR 5525
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1 I, MITCHELL SCOTT, have read the foregoing
2 deposition and hereby affix my signature that same is
3 true and correct, except as noted above:

4
5
6 MITCHELL SCOTT

7
8 THE STATE OF TEXAS)
9 COUNTY OF EL PASO)

10
11 Before me, _____, on this
12 day personally appeared MITCHELL SCOTT, known to me (or
13 proved to me under oath or through _____) to
14 be the person whose name is subscribed to the foregoing
15 instrument and acknowledged to me that they executed the
16 same for the purposes and consideration therein
17 expressed.

18 Given under my hand and seal of office this
19 ____ day of _____, 2024.

20
21
22
23 _____
24 NOTARY PUBLIC IN AND FOR
25 EL PASO COUNTY, TEXAS
MY COMMISSION EXPIRES _____